

Notice of Completion & Environmental Document Transmittal

Mail to: State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044 (916) 445-0613
 For Hand Delivery/Street Address: 1400 Tenth Street, Sacramento, CA 95814

SCH # 2014051042

Project Title: Initial Study, Mitigated Negative Declaration and Conditional Use Permit (CUP) 13-05

Lead Agency: City of California City Contact Person: William T. Weil, Jr., City Manager
 Mailing Address: 21000 Hacienda Blvd. Phone: (760) 373-7170
 City: California City, CA Zip: 93505-2293 County: Kern

Project Location: County: Kern City/Nearest Community: California City
 Cross Streets: Neuralia Road and Hans Boulevard Zip Code: 93505
 Longitude/Latitude (degrees, minutes and seconds): -117 ° 58 ' 52W " N / 35 ° 9 ' 27N " W Total Acres: 39.54
 Assessor's Parcel No.: 302-324-06 Section: 11 Twp.: 32S Range: R37E Base: MDB&M
 Within 2 Miles: State Hwy #: No Waterways: No
 Airports: Yes Railways: Yes Schools: Yes

Document Type:

CEQA: ☐ NOP ☐ Draft EIR NEPA: ☐ NOI Other: ☐ Joint Document
☐ Early Cons ☐ Supplement/Subsequent EIR ☐ EA ☐ Final Document
☐ Neg Dec (Prior SCH No.) ☐ Draft EIS ☐ Other: _____
☒ Mit Neg Dec Other: _____

Local Action Type:

☐ General Plan Update ☐ Specific Plan ☐ Rezone ☐ Annexation
☐ General Plan Amendment ☐ Master Plan ☐ Prezone ☐ Redevelopment
☐ General Plan Element ☐ Planned Unit Development ☒ Use Permit ☐ Coastal Permit
☐ Community Plan ☐ Site Plan ☐ Land Division (Subdivision, etc.) ☐ Other: _____

Development Type:

☐ Residential: Units _____ Acres _____ ☐ Transportation: Type _____
☐ Office: Sq.ft. _____ Acres _____ Employees _____ ☐ Mining: Mineral _____
☐ Commercial: Sq.ft. _____ Acres _____ Employees _____ ☒ Power: Type photovoltaic solar MW 8
☐ Industrial: Sq.ft. _____ Acres _____ Employees _____ ☐ Waste Treatment: Type _____ MGD _____
☐ Educational: _____ ☐ Hazardous Waste: Type _____
☐ Recreational: _____ ☐ Other: _____
☐ Water Facilities: Type _____ MGD X

Project Issues Discussed in Document:

<input checked="" type="checkbox"/> Aesthetic/Visual	<input type="checkbox"/> Fiscal	<input checked="" type="checkbox"/> Recreation/Parks	<input checked="" type="checkbox"/> Vegetation
<input checked="" type="checkbox"/> Agricultural Land	<input checked="" type="checkbox"/> Flood Plain/Flooding	<input checked="" type="checkbox"/> Schools/Universities	<input checked="" type="checkbox"/> Water Quality
<input checked="" type="checkbox"/> Air Quality	<input type="checkbox"/> Forest Land/Fire Hazard	<input checked="" type="checkbox"/> Septic Systems	<input checked="" type="checkbox"/> Water Supply/Groundwater
<input checked="" type="checkbox"/> Archeological/Historical	<input checked="" type="checkbox"/> Geologic/Seismic	<input checked="" type="checkbox"/> Sewer Capacity	<input type="checkbox"/> Wetland/Riparian
<input checked="" type="checkbox"/> Biological Resources	<input checked="" type="checkbox"/> Minerals	<input checked="" type="checkbox"/> Soil Erosion/Compaction/Grading	<input checked="" type="checkbox"/> Growth Inducement
<input type="checkbox"/> Coastal Zone	<input checked="" type="checkbox"/> Noise	<input checked="" type="checkbox"/> Solid Waste	<input checked="" type="checkbox"/> Land Use
<input checked="" type="checkbox"/> Drainage/Absorption	<input checked="" type="checkbox"/> Population/Housing Balance	<input checked="" type="checkbox"/> Toxic/Hazardous	<input type="checkbox"/> Cumulative Effects
<input checked="" type="checkbox"/> Economic/Jobs	<input checked="" type="checkbox"/> Public Services/Facilities	<input checked="" type="checkbox"/> Traffic/Circulation	<input type="checkbox"/> Other: _____

Present Land Use/Zoning/General Plan Designation:

Present Land Use Rural Desert Vacant/Zoning: O/RA/General Plan: Open Space/Residential Agriculture

Project Description: (please use a separate page if necessary)

The project will include within a chain-link fenced area, 28,500 solar modules, racking, power inverters, transformers, switch-gear, wiring, lighting and security cameras.

APN 302-324-06 (39.54 acres) (Longitude -117 degrees, 58 minutes, 52.6800 seconds West and Latitude 35 degrees, 9 minutes, 27.7200 seconds North)

Reviewing Agencies Checklist

Lead Agencies may recommend State Clearinghouse distribution by marking agencies below with an "X".
If you have already sent your document to the agency please denote that with an "S".

<input type="checkbox"/> Air Resources Board	<input type="checkbox"/> Office of Emergency Services
<input type="checkbox"/> Boating & Waterways, Department of	<input type="checkbox"/> Office of Historic Preservation
<input type="checkbox"/> California Highway Patrol	<input type="checkbox"/> Office of Public School Construction
S <input type="checkbox"/> Caltrans District #9	<input type="checkbox"/> Parks & Recreation, Department of
<input type="checkbox"/> Caltrans Division of Aeronautics	<input type="checkbox"/> Pesticide Regulation, Department of
<input type="checkbox"/> Caltrans Planning	<input type="checkbox"/> Public Utilities Commission
<input type="checkbox"/> Central Valley Flood Protection Board	S <input type="checkbox"/> Regional WQCB #
<input type="checkbox"/> Coachella Valley Mtns. Conservancy	<input type="checkbox"/> Resources Agency
<input type="checkbox"/> Coastal Commission	<input type="checkbox"/> S.F. Bay Conservation & Development Comm.
<input type="checkbox"/> Colorado River Board	<input type="checkbox"/> San Gabriel & Lower L.A. Rivers & Mtns. Conservancy
<input type="checkbox"/> Conservation, Department of	<input type="checkbox"/> San Joaquin River Conservancy
<input type="checkbox"/> Corrections, Department of	<input type="checkbox"/> Santa Monica Mtns. Conservancy
<input type="checkbox"/> Delta Protection Commission	<input type="checkbox"/> State Lands Commission
<input type="checkbox"/> Education, Department of	<input type="checkbox"/> SWRCB: Clean Water Grants
<input type="checkbox"/> Energy Commission	<input type="checkbox"/> SWRCB: Water Quality
S <input type="checkbox"/> Fish & Game Region #	<input type="checkbox"/> SWRCB: Water Rights
<input type="checkbox"/> Food & Agriculture, Department of	<input type="checkbox"/> Tahoe Regional Planning Agency
<input type="checkbox"/> Forestry and Fire Protection, Department of	<input type="checkbox"/> Toxic Substances Control, Department of
<input type="checkbox"/> General Services, Department of	<input type="checkbox"/> Water Resources, Department of
<input type="checkbox"/> Health Services, Department of	S <input type="checkbox"/> Other: U.S. Fish and Wildlife Service
<input type="checkbox"/> Housing & Community Development	S <input type="checkbox"/> Other: per Mailing list pages 2-7
<input type="checkbox"/> Integrated Waste Management Board	
S <input type="checkbox"/> Native American Heritage Commission	

Local Public Review Period (to be filled in by lead agency)

Starting Date Monday, August 25, 2014 Ending Date Tuesday, September 23, 2014

Lead Agency (Complete if applicable):

Consulting Firm: _____	Applicant: <u>City of California City</u>
Address: _____	Address: <u>21000 Hacienda Blvd.</u>
City/State/Zip: _____	City/State/Zip: <u>California City, CA 93505</u>
Contact: _____	Phone: <u>(760) 373-7141</u>
Phone: _____	

Signature of Lead Agency Representative: _____

William T. Weil, Jr., City Manager/Planning Director

Date: 8/8/14

Authority cited: Section 21083, Public Resources Code. Reference: Section 21161, Public Resources Code.

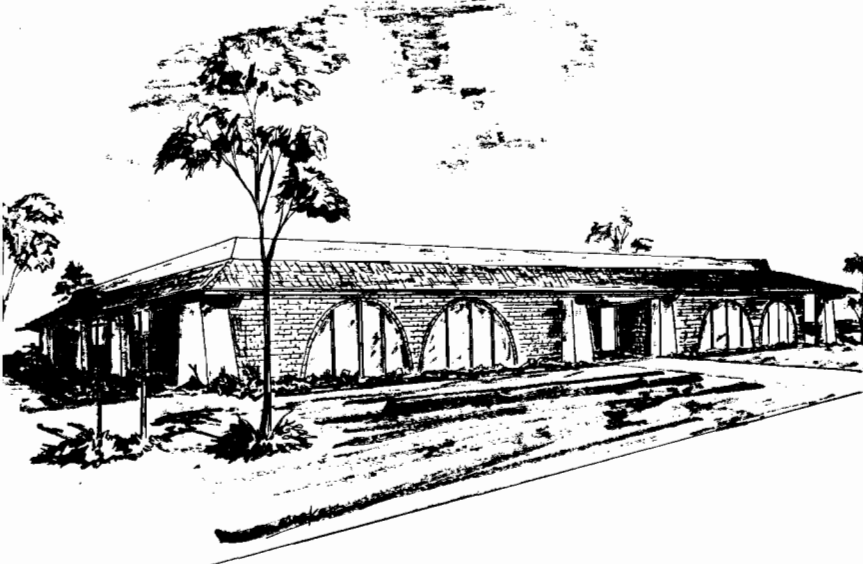
City of California City

City Hall



PHONE (760) 373-8661

21000 HACIENDA BLVD. - CALIFORNIA CITY, CALIFORNIA 93505



August 21, 2014

FILE: Initial Study, Mitigated Negative Declaration, Conditional Use Permit (CUP) 13-05

Ladies and Gentlemen:

This Department, as Lead Agency, has determined that preparation of a Negative Declaration would be appropriate for the referenced project. As required by Section 15073 of the State CEQA Guidelines, we are submitting the proposed Negative Declaration to all responsible agencies for consultation. This consultation is requested to ensure that the environmental decision by our Department will reflect the concerns of responsible agencies involved with the project.

An electronic version of this document is available on the City's website at www.californiacity.com.

Review begins: Monday, August 25, 2014 Review ends: Tuesday, September 23, 2014

The Planning Commission will hold a public hearing at their regular meeting on **Tuesday, September 23, 2014, at 6:00 p.m.**, in the Council Chambers located at 21000 Hacienda Boulevard, California City, California 93505 to consider the Initial Study, Negative Declaration and CUP 13-05. A subsequent public hearing (the date to be determined) will be held by the City Council for their consideration and adoption.

If a response is not received from your agency by **5:00 p.m. COB on Tuesday, September 23, 2014**, this Department will assume that your agency has no comment. **Should you have any questions, please contact William T. Weil, Jr., City Manager/Planning Director or the Planning Department at (760) 373-7141.**

Sincerely,

A handwritten signature in black ink, appearing to read "William T. Weil, Jr.", written over a horizontal line.

William T. Weil, Jr.
City Manager/Planning Director

Attachments

**CITY OF CALIFORNIA CITY NOTICE OF INTENT
FOR THE PREPARATION AND CONSIDERATION
OF AN INITIAL STUDY, MITIGATED NEGATIVE DECLARATION
AND CONDITIONAL USE PERMIT (CUP) 13-05**

NOTICE IS HEREBY GIVEN that the City of California City is recirculating this Initial Study as a Mitigated Negative Declaration for American Solar Utilities, LLC, Stephen Rumbaugh, 1470 Civic Court, Ste. 309, Concord, CA 94520, c/o Dennis Mueller, Vice President, 6360 Chatswood Dr., Martinez, CA 94553, to construct a Photovoltaic Solar Power Generation Facility on 39.54 acres (APN 302-324-06), approximately two and one-eighth miles northeast from California City Boulevard along Neuralia Road. The property is zoned Open Space/Residential Agricultural (O/RA) and the California City Municipal Code (CCMC) allows an electric distribution substation with a CUP. The CUP will incorporate mitigation measures recommended in the Biological Resource Assessment for APN 302-324-06 as Exhibit A of Resolution 06-10-2014PC. A favorable Staff Development Review (SDR) was completed on November 26, 2013. A public hearing was completed on June 10, 2014 and it was recommended to re-circulate the Initial Study as a Mitigated Negative Declaration and incorporate those measures into CUP 13-05 as part of Exhibit A.

In accordance with the provisions of the California Environmental Quality Act (CEQA) and the Guidelines for Implementation of CEQA, which have been adopted by the California Resources Agency this Initial Study was undertaken for the purpose of deciding whether the American Solar Project, might have a significant effect on the environment. On the basis of such Initial Study, the City's staff has concluded that this project could not have a significant effect on the environment and it is consistent with the existing General Plan 2009-2028. As mandated by State law, the minimum public review period for a Mitigated Negative Declaration is 30 days and a Mitigated Negative Declaration has been prepared. The public review period begins on **Friday, August 15, 2014** and concludes on **Thursday, September 14, 2014, 5:00 p.m. COB.**

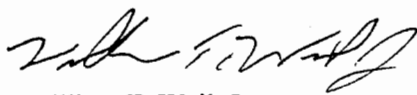
A copy of the Initial Study, Mitigated Negative Declaration and CUP 13-05 is available for review at City Hall in the Planning Department located at 21000 Hacienda Boulevard, California City, California and on the City's website at www.californiacity.com.

NOTICE IS FURTHER GIVEN that the Planning Commission of California City will hold a public hearing at their regular meeting on **Tuesday, September 23, 2014, at 6:00 p.m.**, in the Council Chambers located at 21000 Hacienda Boulevard, California City, California 93505, to consider the Initial Study, Mitigated Negative Declaration and CUP 13-05 and if it could not have a significant effect on the environment, and nothing further is required, it may forward the Initial Study, Mitigated Negative Declaration and CUP 13-05, to the City Council for their consideration and adoption at a subsequent public hearing (the date to be determined). Testimony at future public hearings may be limited to those issues raised during the public review period.

Project Location and Description:

The project is located in the north one-half of the south one-half of the southwest one-fourth of Section 11, T32S, R37E, MDB&M (Lat.35.158091/Lon. -117.985507, on APN 302-324-06 in California City. The project will include within a chain-link fenced area, 28,500 solar modules, racking, power inverters, transformers, switchgear, wiring, lighting and security cameras. The Occupancy Rating U (Utility and Miscellaneous Group). The owners of the land are Jerry & Dolores Stefek Family Trust, 5777 Santa Inez Pl., Rancho Cucamonga, CA 91739 and are leasing the property to American Solar Utilities for a period of 20 years plus 90 days after the date that Southern California Edison (SCE) has commissioned the project.

ANY PERSON WISHING TO BE HEARD on this matter may appear and speak at the Planning Commission meeting or may submit their comments in writing, directly to the Planning Department.



William T. Weil, Jr.
City Manager/Planning Director

Dated: August 4, 2014

**THE INITIAL STUDY, MITIGATED NEGATIVE DECLARATION,
AND CONDITIONAL USE PERMIT (CUP) 13-05**

BY PLANNING COMMISSION

This is to advise that the City of California City Planning Department is recirculating this Initial Study as a Mitigated Negative Declaration, and CUP 13-05 for the project identified as a Photovoltaic Solar Power Generation Facility by American Solar Utilities, LLC, Stephen Rumbaugh, 1470 Civic Court, Ste. 309, Concord, CA 94520, c/o Dennis Mueller, Vice President, 6360 Chatswood Dr., Martinez, CA 94553, to construct a Photovoltaic Solar Power Generation Facility on 39.54 acres (APN 302-324-06), approximately two and one-eighth miles northeast from California City Boulevard along Neuralia Road. The property is zoned Open Space/Residential Agricultural (O/RA) and the California City Municipal Code (CCMC) allows an electric distribution substation with a CUP. A favorable Staff Development Review (SDR) was completed on November 26, 2013. A public hearing was completed on June 10, 2014 and it was recommended to re-circulate the Initial Study as a Mitigated Negative Declaration and incorporate those measures into CUP 13-05 as part of Exhibit A.

As mandated by State law, the minimum public review period for a mitigated negative declaration is 30 days. This update is consistent with the existing General Plan 2009-2028.

The Planning Commission has scheduled a public hearing to consider the Initial Study, Mitigated Negative Declaration and CUP 13-05 on **Tuesday, September 23, 2014 at 6:00 p.m.**, in the Council Chambers at City Hall, 21000 Hacienda Boulevard, California City, California 93505-2293.

The Planning Commission will forward its recommendation to the City Council for their consideration and adoption at a subsequent public hearing (the date to be determined). Testimony at future public hearings may be limited to those issues raised during the public review period beginning **Friday, August 15, 2014** and concludes on **Thursday, September 14, 2014** either orally or submitted in writing by 5:00 p.m., COB the day the comment period closes.

Project Title: Initial Study, Mitigated Negative Declaration, and CUP 13-05. The CUP will incorporate protection measures recommended in the Biological Resource Assessment for APN 302-324-06 as Exhibit A of Resolution 06-10-2014PC.

Project Location and Description:

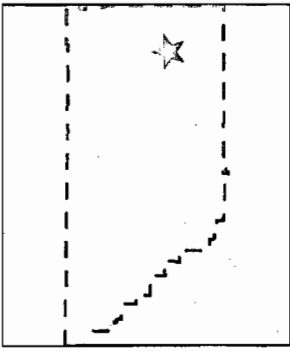
The project is located in the north one-half of the south one-half of the southwest one-fourth of Section 11, T32S, R37E, MDB&M (Lat.35.158091/Lon. -117.985507, on APN 302-324-06 in California City. The project will include within a chain-link fenced area, 28,500 solar modules, racking, power inverters, transformers, switchgear, wiring, lighting and security cameras. The Occupancy Rating U (Utility and Miscellaneous Group). The owners of the land are Jerry & Dolores Stefek Family Trust, 5777 Santa Inez Pl., Rancho Cucamonga, CA 91739 and are leasing the property to American Solar Utilities for a period of 20 years plus 90 days after the date that Southern California Edison (SCE) has commissioned the project.

A copy of the Initial Study, Mitigated Negative Declaration and CUP 13-05 is available for the public to review at City Hall in the Planning Department located at 21000 Hacienda Boulevard, California City, California and on the City's website at www.californiacity.com.

For further information, please contact the Planning Department at (760) 373-7141.

WTWJ:rg (8/4/14)

APN 302-324-06

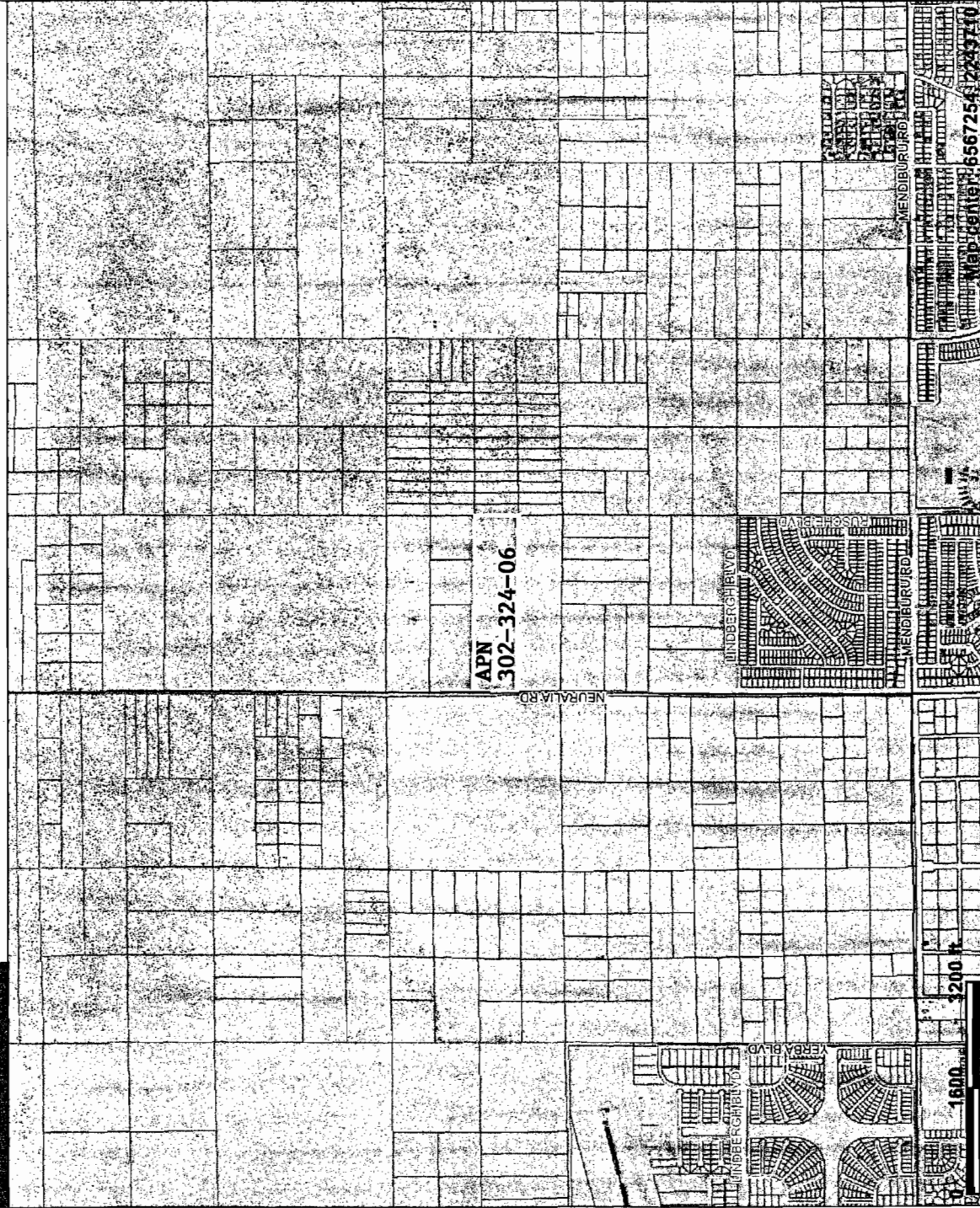


Legend

- Roads
 - Arterial
 - Collector
 - Highway
 - Local
 - Ramp
 - Unpaved
- County of Kern
- Assessment Parcels
- Aerial Photo 2008



Scale: 1:27,795



This map is a user generated static output from an Internet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.

INITIAL STUDY AND ENVIRONMENTAL CHECKLIST FORM

1. **Project Title:** Initial Study, Mitigated Negative Declaration and Conditional Use Permit (CUP) 13-05
2. **Lead Agency Name and Address:** City of California City, 21000 Hacienda Boulevard, California City, California 93505-2293
3. **Contact Person and Phone Number:** William T. Weil, Jr., City Manager/Planning Director
4. **Project Location:** The project involves one lot totaling 39.54 acres located within the boundaries of California City in the County of Kern, California. Located in the north one-half of the south one-half of the southwest one-fourth of Section 11, T32S, R37E, MDB&M, (APN 302-324-06 - Latitude 35°, 9', 27.7200" N /Longitude 118°, 58', 52.6800" W).
5. **Project Sponsor's Name and Address:** American Solar Utilities, LLC, Stephen Rumbaugh, 1470 Civic Court, Ste. 309, Concord, CA 94520, c.o Dennis Mueller, Vice President, 6360 Chatswood Dr., Martinez, CA 94553.
6. **General Plan Designation:** The property is designated Open Space/Residential Agricultural.
7. **Zoning:** The property is zoned O/RA.
8. **Description of the Project:** (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation. Attach additional sheets if necessary)

The total project site is approximately 39.54 acres on APN 302-324-06. The project will include within a chain-link fenced area, 28,500 solar modules, racking, power inverters, transformers, switchgear, wiring, lighting and security cameras. The photovoltaic layout of up to 8 MW with 14.5 acres of modules plus 20 acres of space between rows for driving to install and maintain the modules. The Occupancy Rating U (Utility and Miscellaneous Group). The owners of the land are Jerry & Dolores Stefek Family Trust, 5777 Santa Inez Pl., Rancho Cucamonga, CA 91739 and are leasing the property to American Solar Utilities for a period of 20 years plus 90 days after the date that Southern California Edison (SCE) has commissioned the project.

9. **Surrounding Land uses and Setting:** (Briefly describe the project's surroundings)

North, east, south and west the properties are zoned Open Space/Residential Agricultural (O/RA) to the southwest the property is zoned Light Industrial (M1). The setting is rural desert vacant land with no utilities or structures for a minimum one-half mile in any direction. Public access is from Neuralia Road, a paved two-lane road. Lightly traveled mainly by residents of California City and the unincorporated areas in Kern County. Major traffic flows on State Routes 14 to the west and northwest, 58 to the south and 395 to the east and northeast.

There is an eastern exit along a dirt road known as Batz Street. A gated entrance will be provided at the front and back of the property as required by the City Fire Department and a 20-foot perimeter road for fire access. The City's Staff Development Review (SDR) was completed on November 26, 2013 with all departments. It was approved to move forward with a conditional use permit (CUP) and a new biota study was prepared and completed on April 16, 2014.

10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement). Distribution of this document is appropriate to the following agencies:

LIST OF AGENCIES

AGENCY	QTY TO BE MAILED
STATE CLEARINGHOUSE 1400 TENTH STREET SACRAMENTO CA 95812-3044	15
COUNTY CLERK COUNTY OF KERN 1115 TRUXTUN AVE - FIRST FLOOR BAKERSFIELD CA 93301-4639	2
KERN COUNCIL OF GOVERNMENTS ATTN MARILYN BEARDSLEE 1401 19 TH ST STE 300 BAKERSFIELD CA 93301	1
ALAN BAILEY VERIZON TELEPHONE CO 520 SO CHINA LAKE BLVD RIDGECREST CA 93555	1
SARAH NEWMAN SOUTHERN CALIFORNIA EDISON 510 SO CHINA LAKE BLVD RIDGECREST CA 93555	1
HENRY BRIGGES THE GAS COMPANY TECHNICAL SERVICES DEPARTMENT 9400 OAKDALE AVE CHATSWORTH CA 91313-2300	1

LIST OF AGENCIES (CONTINUED)

AGENCY	QTY TO BE MAILED
SCOTT KIERNAN SUSTAINABILITY OFFICER/ ENCROACHMENT PREVENTION MGMT 195 E POPSON AVE 204-10 412 TW/XP/XPO EDWARDS AFB, CA 93524	1
JUDY HOHMAN US FISH & WILDLIFE SERVICE 2093 PORTOLA RD STE B VENTURA CA 93003	1
LINDA CONNOLLY DEPT OF FISH & WILDLIFE CENTRAL REGION 1234 EAST SHAW AVE FRESNO CA 93710	1
CAL-TRANS DISTRICT 9 CEQA COORDINATOR 500 SO MAIN ST BISHOP CA 93514	1
JERRY HELT HELT ENGINEERING 2930 UNION AVE BAKERSFIELD CA 93305	1
LAFCO 5300 LENNOX AVE STE 303 BAKERSFIELD CA 93301-1662	1
EKAPCD 2700 M STREET STE 302 BAKERSFIELD CA 93301	1
LINDA ADAMS CALIFORNIA REGIONAL QUALITY CB LAHONTAN REGION - VICTORVILLE OFFICE 14440 CIVIC DR STE 200 VICTORVILLE CA 92392	1

LIST OF AGENCIES (CONTINUED)

AGENCY	QTY TO BE MAILED
NATIVE AMERICAN HERITAGE COUNCIL OF KERN COUNTY/FAY VAN HORN PO BOX 1507 BAKERSFIELD CA 93302	1
KERN CO ENVIRONMENTAL HEALTH 2700 M STREET STE 300 BAKERSFIELD CA 93301	1
KERN COMMUNITY COLLEGE DISTRICT CHANCELLOR'S OFFICE 21000 CHESTER AVENUE BAKERSFIELD CA 93301	1
GREATER ANTELOPE VALLEY ECONOMIC ALLIANCE 1028 WEST AVENUE L-12 STE 101 LANCASTER CA 93534	1
STEVE ARENSON REGIONAL ENVIRONMENTAL OFFICER FOR CALIFORNIA WESTERN REGION ENVIRONMENTAL OFFICE US AIR FORCE 50 FREMONT STREET SUITE 2450 SAN FRANCISCO CA 94105-22230	1
GARY MUNSTERMAN AFCEC/CPFR US AIR FORCE 50 FREMONT STREET SUITE 2450 SAN FRANCISCO CA 94105-22230	1
TIM KILGANNON REGION NINE ENVIRONMENTAL COORDINATOR REGIONAL ENVIRONMENTAL AND ENERGY OFFICE OFFICE OF THE DEPUTY ASSISTANT UNDERSECRETARY OF THE ARMY OFFICE OF STRATEGIC INTEGRATION 721 19 TH ST ROOM 427 DENVER CO 80202	1
PHIL A CROSBIE CHIEF FORCE INTEGRATION (FI) NTC G3 PO BOX 10172 FT IRWIN CA 92310	1

LIST OF AGENCIES (CONTINUED)

AGENCY	QTY TO BE MAILED
GARY HOUSTON CHIEF ENVIRONMENTAL DIVISION DIRECTORATE OF PUBLIC WORKS USAG FORT HUNTER LIGGET CA 93928	1
STEVE CHUNG COMMUNITY PLANS AND LIAISON OFFICER NAVY REGION SOUTHWEST US NAVY 1220 PACIFIC HIGHWAY SAN DIEGO CA 92132-5190	1
PATRICK CHRISTMAN DIRECTOR WESTERN ENVIRONMENTAL OFFICE US MARINE CORPS BUILDING 1164 BOX 555246 CAMP PENDLETON CA 92055-5246	1
AMERICAN SOLAR UTILITIES LLC STEPHEN RUMBAUGH 1470 CIVIC COURT STE 309 CONCORD CA 94520	1
AMERICAN SOLAR UTILITIES LLC DENNIS MUELLER VICE PRESIDENT 6360 CHATTSWOOD DRIVE MARTINEZ CA 94553	1
JERRY & DOLORES STEFEK FAMILY TRUST 5777 SANTA INEZ PL RANCHO CUCAMONGA CA 91739	1
MARK HAGAN WILDLIFE BIOLOGIST 44715 17 TH STREET EAST LANCASTER CA 93535	1

LIST OF AGENCIES (CONTINUED)

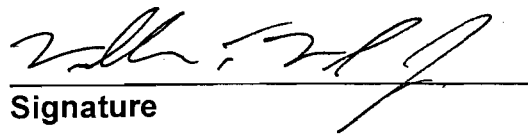
AGENCY	QTY TO BE MAILED
DAVE HACKER SENIOR ENVIRONMENTAL SCIENTIST CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE REGION 4 CLIMATE SCIENCE AND RENEWABLE ENERGY BRANCH 3196 S HIGUERA ST STE A SAN LUIS OBISPO CA 93401	1

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED: The environmental factors checked below (☒) would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

<input type="checkbox"/>	Aesthetics	<input type="checkbox"/>	Hazards & Hazardous Materials	<input type="checkbox"/>	Public Services
<input type="checkbox"/>	Agriculture Resources	<input type="checkbox"/>	Hydrology/Water Quality	<input type="checkbox"/>	Recreation
<input type="checkbox"/>	Air Quality	<input type="checkbox"/>	Land Use/Planning	<input type="checkbox"/>	Transportation/Traffic
<input type="checkbox"/>	Biological Resources	<input type="checkbox"/>	Mineral Resources	<input type="checkbox"/>	Utilities/Service Systems
<input type="checkbox"/>	Cultural Resources	<input type="checkbox"/>	Noise	<input type="checkbox"/>	Mandatory Findings of Significance
<input type="checkbox"/>	Geology/Soils	<input type="checkbox"/>	Population/Housing	<input type="checkbox"/>	

DETERMINATION: (To be completed by the Lead Agency). On the basis of this initial evaluation:

I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.	
I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.	X
I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.	
I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect (1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.	
I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION , including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.	


Signature

August 15, 2014

Date

William T. Weil, Jr.
Printed Name

City Manager/Planning Director
Title

EVALUATION OF ENVIRONMENTAL IMPACTS:

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in its explanation following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e. g. the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e. g. the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).**
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.**
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation incorporated, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.**
- 4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section 17, "Earlier Analysis," may be cross-referenced).**
- 5) Earlier analysis may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063 (c) (3) (D). In this case, a brief discussion should identify the following:**
 - (a) Earlier Analysis Used. Identify and state where they are available for review.**
 - (b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.**
 - (c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address the site-specific conditions for the project.**
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g. general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.**
- 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.**
- 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.**
- 9) The explanation of each issue should identify: (a) the significance criteria or threshold, if any, used to evaluate each question; and (b) the mitigation measure identified, if any, to reduce the impact to less than significant.**

Issues and Supporting Information Sources	Potentially Significant Impacts	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
---	---------------------------------	--	------------------------------	-----------

1. AESTHETICS. Would the project:

a) Have a substantial adverse effect on a scenic vista? No. The photovoltaic modules are small units and the area is rural desert vacant land for a minimum of one-half mile in any direction. According to the biota study completed on April 16, 2014, heavy grazing signs were observed throughout the site. Off highway vehicle (OHV) tracks were observed to the southeast during the survey. Skeet shooting was heard during the survey. Scattered litter was observed within the study site. Small sand dune formation was observed at the base of many of the shrubs on the study site. The City of California City Municipal Code (CCMC) Zoning, Title 9, Chapter 2, Article 4, Section 9-2.401 states no person shall allow or provide for the grazing of livestock animals, except within fenced and enclosed areas from which the animal cannot wander. No person shall drive herd or cause such animal to be moved along or over the streets of the City except within the confines of a licensed vehicle. Equines may be ridden along equestrian trails if they do not cause any traffic impediment.			X	
b) Substantially damage scenic resources, including, but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway. No. The property is not within a state scenic highway and would not threaten any scenic resources, trees, rock outcroppings, and there are no historic buildings.			X	
c) Substantially degrade the existing visual character or quality of the site and its surroundings? No. According to the 4/16/14 biota study, most perennial vegetation was dead or highly desiccated at the time the field survey was conducted. The study site showed signs of heavy sheep grazing. The number of individual annual plants was very low. Many remnants of perennial bunch grass observed were chewed to the ground within the study site with very few resprouting. The primary perennial species on the site, cheese bush, is a pioneer species, common in an early successional stage. Historical aerals showed that between Dec. 2011 and Aug. 2012 a major disturbance took place within and north/northeast of the site as evidenced by a large area lacking vegetation visible in the 2012 photo included in the biota study. This was a large and quick impact covering more than 100 acres. The evidence on the ground shows increased impacts since the 2012 aerial. The large sheep grazing impacts throughout the site, destabilized soils, lack of available forage, low sign of wildlife, along with the dead/decadent understory of burro bush, and very low number of creosote, indicates the site has been set back to an early successional stage. Without intervention this condition would be expected to continue and prevent recolonization of the site. It is unknown whether this is entirely from heavy sheep grazing or a combination of grazing and off-road vehicles, or some other cause. Although not observed, several wildlife species would be expected to occur within the proposed project area.			X	

Issues and Supporting Information Sources	Potentially Significant Impacts	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
---	---------------------------------	--	------------------------------	-----------

d) Create a new source of substantial light. No. The solar project will have nine poles. Each pole will have both onsite lighting and security cameras. Lighting shall be deflected downward to cause no glare to aircraft. The project is within 2 miles of the California City Municipal Airport and the City is also in the R2508 Restricted Airspace of Edwards Air Force Base. No wind turbines or solar mirrors are allowed within the City of California City.			X	
---	--	--	---	--

2. AGRICULTURE RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:

a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland) as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? The lot is privately owned and American Solar Utility (ASU) LLC is leasing the property from the owners. The site has no water and the nearest City water source is more than one-half mile south from the project site. There are no private water wells on the property. There is no commercial farming in California City.				X
---	--	--	--	---

b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? No. The lot is privately owned. Open Space/Residential Agriculture (O/RA) zoning is designated for one home with livestock or gardening. It is incidental to the main use and the main use is a home.				X
--	--	--	--	---

c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use? No. There is no commercial farming in California City, the project site has no water, no structures, no fencing and is privately owned. This property will be leased by ASU for a period of 20 years plus 90 days and if the lease is not renewed, the solar modules will be removed and the land will become vacant.				X
---	--	--	--	---

3. AIR QUALITY: Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan? No. During and after construction a water truck will be used to minimize dust by spraying/dampening the ground and limited vehicle speed to 10 MPH will be posted and required inside the facility.				X
---	--	--	--	---

b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation? No. This solar project will not violate any air quality standard or contribute substantially to an existing or projected air quality violation. After construction is completed there will be limited access to the facility. The solar modules will be maintained as necessary and vehicle speed inside the facility will be 10 MPH. A water truck will be used to spray and dampen the ground to minimize dust.				X
--	--	--	--	---

Issues and Supporting Information Sources	Potentially Significant Impacts	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
---	---------------------------------	--	------------------------------	-----------

c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)? No. The solar project will not result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors).				X
---	--	--	--	---

d) Expose sensitive receptors to substantial pollutant concentrations? No. There would be no sensitive receptors exposed to substantial pollutant concentrations.				X
---	--	--	--	---

e) Create objectionable odors affecting a substantial number of people? No. This project would not create objectionable odors				X
---	--	--	--	---

4. BIOLOGICAL RESOURCES. Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U. S. Fish and Wildlife Service? The biota study prepared on 4/16/14 has identified the site as highly disturbed with human impacts to the area are expected to increase. The site is within one-half mile of a route to Randsburg open area. OHV use was commonly observed around the project site. Heavy sheep grazing has further impacted the project site, destabilized soils, lack of available forage and low creosote were observed. Habitat in the general area will continue to become degraded and fragmented. Protection measures are being recommended in the 4/16/14 biota study for the construction phase of the solar project and will continue after construction is completed. The 4/16/14 biota study is being incorporated as Exhibit A with the protection measures as conditions of approval for CUP 13-05.		X		
---	--	---	--	--

b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or U. S. Fish and Wildlife Service? No. There is no riparian habitat in the project site and protection measures for other sensitive species identified in the 4/16/14 biota study that may occur during construction are being incorporated into CUP 13-05.		X		
--	--	---	--	--

c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? No. There are no federally protected wetlands in the City.		X		
---	--	---	--	--

Issues and Supporting Information Sources	Potentially Significant Impacts	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
---	---------------------------------	--	------------------------------	-----------

d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident migratory wildlife corridors, or impede the use of native wildlife nursery sites? No. The biota study prepared on 4/16/14 has identified the site as highly disturbed with human impacts to the area are expected to increase. The site is within one-half mile of a route to Randsburg open area. OHV use was commonly observed around the project site. Heavy sheep grazing has further impacted the project site, destabilized soils, lack of available forage and low creosote were observed. Habitat in the general area will continue to become degraded and fragmented. Protection measures are being recommended in the 4/16/14 biota study for the construction phase of the solar project and will continue after construction is completed. The 4/16/14 biota study is being incorporated as Exhibit A with the protection measures as conditions of approval for CUP 13-05.		X		
---	--	---	--	--

e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? No. The protection measures are being recommended in the 4/16/14 biota study for the construction of the solar project. Measures will be in place to protect the site after construction is complete, i.e. fencing. The 4/16/14 biota study is being incorporated as Exhibit A with the protection measures as conditions of approval for CUP 13-05.		X		
--	--	---	--	--

f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Conservation Community Plan, other approved local, regional, or state habitat conservation plan? No. The protection measures are being recommended in the 4/16/14 biota study for the construction of the solar project. Measures will be in place to protect the site after construction is complete, i.e. fencing. The 4/16/14 biota study is being incorporated as Exhibit A with the protection measures as conditions of approval for CUP 13-05.		X		
--	--	---	--	--

5. CULTURAL RESOURCES. Would the project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5? No. There are no historical buildings on or near the site.				X
--	--	--	--	---

b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5? No. Development would include installation of solar panels and conduit to the existing utility lines. According to the 4/16/14 biota study the site will not be graded as a result of construction activities. Solar panels will be installed over the existing vegetation; vehicular traffic will drive over any shrubs that cannot be avoided during construction. No transmission lines will be installed outside of the study area. No excavation is expected in the project area however, if an archaeological resource is found, all work will be suspended until the area has been thoroughly examined. Such discoveries may result in delays in development as each project applicant must individually negotiate with the overseeing governmental agencies.				X
---	--	--	--	---

Issues and Supporting Information Sources	Potentially Significant Impacts	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
---	---------------------------------	--	------------------------------	-----------

c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? No excavation is expected in the project area however, if a unique paleontological resource or site or unique geologic feature are found, all work will be suspended until the area has been thoroughly examined. Such discoveries may result in delays in development as each project applicant must individually negotiate with the overseeing governmental agencies.				X
---	--	--	--	---

d) Disturb any human remains, including those interred outside of formal cemeteries? No excavation is expected in the project area however, if any human remains, including those interred outside of formal cemeteries are found, all work will be suspended until the area has been thoroughly examined. Such discoveries may result in delays in development as each project applicant must individually negotiate with the overseeing governmental agencies.				X
--	--	--	--	---

6. GEOLOGY AND SOILS. Would the project

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42. No. There are no known active faults on the project site. However, the Garlock Fault (west) is approximately 8 miles from the project site and the Garlock Fault (east) is approximately 11 miles from the project site. The Muroc Fault traverses the southeastern portion of the City. This fault has not demonstrated Holocene movement during the past 11,000 years and, therefore, is not classified as an active or potentially active fault (reference page 6-3 of the City's General Plan, source Geological Hazards Study, April 2003).				X
---	--	--	--	---

ii) Strong seismic ground shaking? No. There are no known active faults on the project site. However, seismic ground shaking and seismic-related ground failure and liquefaction could occur without warning in any location in the state of California.				X
--	--	--	--	---

iii) Seismic-related ground failure, including liquefaction? No. There are no known active faults on the project site. However, seismic ground shaking and seismic-related ground failure and liquefaction could occur without warning in any location in the state of California.				X
--	--	--	--	---

iv) Landslides? No. Landslides are highly unlikely due to the terrain of the project site. There were no drainages or streambed features observed within the project site.				X
--	--	--	--	---

b) Result in substantial soil erosion or the loss of topsoil? No. There were no drainages or streambed features observed within the study area.				X
---	--	--	--	---

Issues and Supporting Information Sources	Potentially Significant Impacts	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
---	---------------------------------	--	------------------------------	-----------

c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? No. Landslides are highly unlikely due to the terrain of the area. According to the 4/16/14 biota study the soil is destabilized due to OHV use and heavy sheep grazing.				X
---	--	--	--	---

d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property? No. The solar modules will be placed on stabilized soil and prior to operation. A maintenance worker will regularly check the site.				X
--	--	--	--	---

e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water? There will be no facilities of this nature on the site.				X
--	--	--	--	---

7. HAZARDS AND HAZARDOUS MATERIALS. Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? No. These solar modules are high voltage and proper signage, fencing with security cameras and security lighting will be installed on nine poles within the gated facility.				X
---	--	--	--	---

b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? No. These solar modules are high voltage and proper signage, fencing with security cameras and security lighting will be installed on nine poles within the gated facility.				X
---	--	--	--	---

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? No. There is no school within one mile of the facility. All four California City schools have similar solar modules in portions of their schools.				X
---	--	--	--	---

d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment? No. According to the Cortese List, there are no hazardous material sites in the City of California City.				X
---	--	--	--	---

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? No. This project is within two miles of the California City Municipal Airport however, the City of California City is in the R2508 Restricted Airspace of Edwards Air Force Base where flight testing occurs on a regular basis.				X
---	--	--	--	---

Issues and Supporting Information Sources	Potentially Significant Impacts	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
---	---------------------------------	--	------------------------------	-----------

f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area? No. There are no private airstrips within the jurisdictional boundaries of the City.				X
--	--	--	--	---

g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? No. This project would not impair or physically interfere with the City's adopted emergency response plan or emergency evacuation plan.				X
---	--	--	--	---

h) Expose people or structures to a significant risk of loss, injury or death including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? No. There are no wildlands in the vicinity of this project. The project site has highly disturbed soil and sparse vegetation that poses a risk of fire which is possible with any desert vacant land.				X
--	--	--	--	---

3. HYDROLOGY AND WATER QUALITY. Would the project:

a) Violate any water quality standards or waste discharge requirements? No. There is no water available on-site. Storm water will be retained onsite and dust will be controlled with the use of a water truck spraying and dampening the ground, speed within the facility is reduced to 10 MPH.				X
---	--	--	--	---

b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? No. The solar project does not need water other than for periodically cleaning the modules and minimizing dust with the use of a water truck.				X
---	--	--	--	---

c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site? No. According to the 4/16/14 biota study the site is highly disturbed from OHV use and heavy sheep grazing. The topography of the study area ranged from approximately 2,340 to 2,350 feet (755 to 758 m) above sea level. No washes were observed within the study site.				X
--	--	--	--	---

d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site? No. The project site is not in a flood zone (Flood Zone X an area of minimal flooding. FEMA Flood Panel 06029C2940E, FEMA Panel Date 9-26-08). Surface runoff will be retained onsite.				X
---	--	--	--	---

Issues and Supporting Information Sources	Potentially Significant Impacts	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
---	---------------------------------	--	------------------------------	-----------

e) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff? No. All storm water drainage is retained onsite.				X
---	--	--	--	---

f) Otherwise substantially degrade water quality? No. The solar project does not need water other than for periodically cleaning the modules and minimizing dust with the use of a water truck.				X
---	--	--	--	---

g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? No. The solar project site is not in a flood zone (Flood Zone X an area of minimal flooding. FEMA Flood Panel 06029C2940E, FEMA Panel Date 9-26-08). There is no housing.				X
---	--	--	--	---

h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? No. No. The project site is not in a flood zone (Flood Zone X an area of minimal flooding. FEMA Flood Panel 06029C2940E, FEMA Panel Date 9-26-08). Surface runoff will be retained onsite.				X
---	--	--	--	---

i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? No. There are no levees or dams anywhere in the vicinity. The project site is not in a flood zone (Flood Zone X an area of minimal flooding. FEMA Flood Panel 06029C2940E, FEMA Panel Date 9-26-08). Surface runoff will be retained onsite.				X
--	--	--	--	---

j) Inundation by seiche, tsunami, or mudflow? No. The project site is not in a flood zone (Flood Zone X an area of minimal flooding. FEMA Flood Panel 06029C2940E, FEMA Panel Date 9-26-08). Surface runoff will be retained onsite.				X
---	--	--	--	---

9. LAND USE AND PLANNING. Would the project:

a) Physically divide an established community? No. This solar project would not divide the community.				X
---	--	--	--	---

b) Conflict with any applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? No. This project does not conflict with any applicable land use plan, policy or regulation. The California City Municipal Code (CCMC) allows for a electric distribution substation in the Open Space/Residential Agriculture (O/RA) zone with a conditional use permit (CUP). The CUP will incorporate protection measures recommended in the Biological Resource Assessment and will be Exhibit A of Resolution 06-10-2014PC and Exhibit A in the Conditions of Approval for CUP 13-05.			X	
--	--	--	---	--

Issues and Supporting Information Sources	Potentially Significant Impacts	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
---	---------------------------------	--	------------------------------	-----------

c) Conflict with any applicable habitat conservation plan or natural communities conservation plan? No. The project site is included in the Redevelopment Plan and Project Area EIR SCH #1987110918.				X
--	--	--	--	---

10. MINERAL RESOURCES. Would the project:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state? No. There are no mineral resources in the project site known as APN 302-324-06.				X
--	--	--	--	---

b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? No. There are no mineral resources in the project site known as APN 302-324-06.				X
---	--	--	--	---

11. NOISE. Would the project result in:

a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? The City of California City is in the R2508 Restricted Airspace of Edwards Air Force Base where flight testing occurs on a regular basis. The solar panels are low to the ground and do not create noise. There are no residents near this project area for more than one-half mile to the south.				X
---	--	--	--	---

b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? The City of California City is in the R2508 Restricted Airspace of Edwards Air Force Base where flight testing occurs on a regular basis. The solar panels are low to the ground and do not create noise. There are no residents near this project area for more than one-half mile to the south.				X
---	--	--	--	---

c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? The City of California City is in the R2508 Restricted Airspace of Edwards Air Force Base where flight testing occurs on a regular basis. The solar panels are low to the ground and do not create noise. There are no residents near this project area for more than one-half mile to the south.				X
--	--	--	--	---

d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? The City of California City is in the R2508 Restricted Airspace of Edwards Air Force Base where flight testing occurs on a regular basis. The solar panels are low to the ground and do not create noise. There are no residents near this project area for more than one-half mile to the south.				X
--	--	--	--	---

Issues and Supporting Information Sources	Potentially Significant Impacts	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
---	---------------------------------	--	------------------------------	-----------

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? The project site is within two miles of the California City Municipal Airport. However, the City of California City is in the R2508 Restricted Airspace of Edwards Air Force Base where flight testing occurs on a regular basis.				X
---	--	--	--	---

f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? No. There are no private airstrips within the jurisdictional boundaries of the City. However, the City of California City is in the R2508 Restricted Airspace of Edwards Air Force Base where flight testing occurs on a regular basis.				X
--	--	--	--	---

12. POPULATION AND HOUSING. Would the project:

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? No. There are no direct or indirect substantial population growth expected to result from the development of this project.				X
--	--	--	--	---

b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? No. This project site is rural large acreage sites sparsely populated for more than one-half mile to the south. There is no water available and it is desert vacant land.				X
---	--	--	--	---

c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? No. This project site is rural large acreage sites sparsely populated for more than one-half mile to the south. There is no water available and it is desert vacant land.				X
---	--	--	--	---

13. PUBLIC SERVICES. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered government facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

a) Fire protection? No. The City Staff Development Review (SDR) of this project occurred on November 26, 2013. The Fire Chief recommended a two gated entrances and a 20-ft. perimeter road within the facility. His recommendation was for approval.				X
---	--	--	--	---

b) Police protection? No. The City Staff Development Review (SDR) of this project occurred on November 26, 2013. The Police Chief's representative recommended connecting the security cameras to the City's Police Department.				X
---	--	--	--	---

c) Schools? No. There is no school within one mile of the facility. All four California City schools have similar solar modules in portions of their schools. The City schools are located in the central core.				X
---	--	--	--	---

d) Parks? No. The City has an 80-acre central park and a 15-acre neighborhood park site northwest of the central core.				X
--	--	--	--	---

Issues and Supporting Information Sources	Potentially Significant Impacts	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
---	---------------------------------	--	------------------------------	-----------

e) Other public facilities? No. There are no other public facilities.				X
---	--	--	--	---

14. RECREATION.

a) Would the project increase the use of existing neighborhood or regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? No. There are no public parks in the vicinity. The City has an 80-acre central park and a 15-acre neighborhood park site northwest of the central core.				X
---	--	--	--	---

b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? No. Fencing the site for the use as a solar facility will be a benefit for renewable energy, protect the site environmentally by preventing and stopping illegal trespassing onto private property by both OHV riders and sheep herders.				X
--	--	--	--	---

15. TRANSPORTATION/TRAFFIC. Would the project:

a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)? No. The construction phase will increase traffic with trucks making deliveries of the solar modules and equipment. Once completed the solar facility will be maintained periodically and monitored by security cameras. The traffic volume on Neuralia Road is generally light and connects the residents of the City of California City and the residents in the unincorporated areas of Kern County.			X	
---	--	--	---	--

b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways? No. The construction phase will increase traffic with trucks making deliveries of the solar modules and equipment. Once completed the solar facility will be maintained periodically and monitored by security cameras. The traffic volume on Neuralia Road is generally light and connects the residents of the City of California City and the residents in the unincorporated areas of Kern County.			X	
---	--	--	---	--

c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks? No. The City of California City is in the R2508 Restricted Airspace of Edwards Air Force Base where flight testing occurs on a regular basis. The site is within two miles of the California City Municipal Airport.				X
--	--	--	--	---

d) Substantially increase hazards to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e. g. farm equipment)? No. Equipment and trucks will be moved in during slower traffic hours.			X	
---	--	--	---	--

e) Result in inadequate emergency access? No. Equipment and trucks will be moved in during slower traffic hours.			X	
--	--	--	---	--

Issues and Supporting Information Sources	Potentially Significant Impacts	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
---	---------------------------------	--	------------------------------	-----------

f) Result in inadequate parking capacity? No. The site has adequate parking capacity during the construction phase (39.54 acres). After construction, the parking requirements in the CCMC Section 9-2.208 will be complied with for industrial uses conducted primarily outside of buildings: One parking space for each employee on the maximum shift plus additional parking spaces prescribed by the Planning Director.				X
---	--	--	--	---

g) Conflict with adopted policies supporting alternative transportation (e.g., bus turnouts, bicycle racks)? No. Equipment and trucks will be moved in during slower traffic hours.				X
---	--	--	--	---

16. UTILITIES AND SERVICE SYSTEMS. Would the project:

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? No. The project site has no water on site.				X
--	--	--	--	---

b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? No. There is adequate capacity since this project requires no water or any use of wastewater treatment facilities.				X
---	--	--	--	---

c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? No. The project would not result in the construction or expansion of storm water drainage facilities, all storm water will be retained onsite.				X
--	--	--	--	---

d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? No new entitlements and resources, or expansion is needed. The site has no water and does not require water. Maintenance of the solar modules will be with a water truck for cleaning purposes; spraying/dampening the ground to reduce dust as necessary.				X
---	--	--	--	---

e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? No. There is adequate capacity since this project requires no water or any use of wastewater treatment facilities.				X
--	--	--	--	---

f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? Yes. If necessary however this project does not require solid waste disposal, there are no facilities located onsite.				X
--	--	--	--	---

g) Comply with federal, state, and local statutes and regulations related to solid waste? Yes. The project will comply with all local statutes and regulations related to solid waste.				X
--	--	--	--	---

Issues and Supporting Information Sources	Potentially Significant Impacts	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
---	---------------------------------	--	------------------------------	-----------

17. MANDATORY FINDINGS OF SIGNIFICANCE.

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? No. This project does not have the potential to degrade the quality of the environment or substantially reduce wildlife species or threaten examples of California history or prehistory. Fencing the site for the use as a solar facility will be a benefit for renewable energy, protect the site environmentally by preventing and stopping illegal trespassing onto private property by both OHV riders and sheep herders. The City will incorporate protection measures into the conditions of approval for CUP 13-05.			X	
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)? No. Consideration has been given to individual and cumulative effects and this project will not impact past, current, or future commercial developments.				X
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? No. Fencing the site for the use as a solar facility will be a benefit for renewable energy, protect the site environmentally by preventing and stopping illegal trespassing onto private property by both OHV riders and sheep herders. The City will incorporate protection measures into the conditions of approval for CUP 13-05.			X	

END OF DOCUMENT

RESOLUTION NO. 09-23-2014PC
A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF CALIFORNIA CITY TO APPROVE
CONDITIONAL USE PERMIT (CUP) 13-05 AND MAKE
RECOMMENDATION TO THE CITY COUNCIL FOR
APPROVAL OF THE INITIAL STUDY AND
MITIGATED NEGATIVE DECLARATION

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF
CALIFORNIA CITY as follows:

1. PURPOSE.

The Commission considered and made recommendations for approval of CUP 13-05 at a duly noticed public hearing on June 10, 2014 for the purpose of operating a Photovoltaic Solar Power Generation Facility. The Photovoltaic Solar Power Generation Facility is being constructed and operated by American Solar Utilities, LLC, 1470 Civic Court, Suite 309, Concord, California 94520.

The property is located in the north one-half of the south one-half of the southwest one-fourth of Section 11, T32S, R37E, MDB&M (Lat. 35.15809/Long. -117.985507) on APN 302-324-06 on 39.54 acres. The property is being leased from the property owners Jerry and Delores Stefek Family Trust, 5777 Santa Inez Place, Rancho Cucamonga, California 91739 for a period of 20 years plus 90 days after the date that Southern California Edison (SCE) has commissioned the project.

2. FINDINGS.

The Planning Commission finds, determines and declares:

Based on correspondence received from the Department of Fish and Wildlife, dated June 4, 2014 the Commission is recirculating CUP 13-05 for a 30-day review period as a Mitigated

Negative Declaration with three pages of Mitigation Measures (Exhibit A).

3. CONDITIONAL USE PERMIT (CUP). The Planning Commission of the City of California City does hereby approve CUP 13-05, with all mitigation measures as stipulated in **Exhibit A**, subject to the City Council's concurrence and approval of the Initial Study and Mitigated Negative Declaration and shall remain in effect for as long as the use is conducted in accordance with the use permit, its stipulations, and is not otherwise in violation of the Zoning Regulations and Municipal Code.

I HEREBY CERTIFY that the foregoing resolution was duly passed and adopted by the Planning Commission on the 23rd day of September, 2014.

AYES:

NOES:

ABSENT:

ABSTAIN:

Chairman

ATTEST:

Recording Secretary

CUP 13-05 Mitigation Measures

The following mitigation measures will be used to protect flora and fauna during pre-construction, construction, post-construction and O&M activities. All of these mitigation protection measures have been incorporated from the multiple Biologist that have surveyed the site and additional recommendations from the California Department of Fish and Wildlife (CDFW) that reviewed the project documents and site location.

- a) Mitigation Measures apply to all activities associated with construction, operations and maintenance, and decommissioning.
- b) Develop and implement a workers training program (Program). Each site worker is required to have training before the time they start activities at the site. Each worker will have a minimum of a quarterly refresher review. A project representative will be identified and provided to the CDFW and USFWS as the contact person prior to construction, with name and phone number.
- c) No pets (dogs or cats) shall be permitted on the site.
- d) No fire arms shall be allowed on the site.
- e) The project will conduct pre-construction surveys for all potential species. All survey results will be submitted to the CDFW and United States Fish & Wildlife Service (USFWS) (for federally-listed species) for evaluation prior to starting construction-related activities. If the CDFW determines that the species could be present, consultation with the CDFW is warranted to develop avoidance, minimization, and mitigation measures. If take cannot likely be avoided, acquisition of a California State ITP would be warranted prior to initiating ground-disturbing activities to comply with CESA.
- f) The project will have a qualified biological monitor that will be present during construction activities.
- g) The project will clearly delineate construction limits on the ground. The project will consult with the CDFW and USFWS before installing exclusionary fencing.
- h) The project will require inspection of vehicles and equipment for sensitive species prior to use.
- i) The project will inspect for nesting birds, species, and any burrows that may be used by species of concern. If nesting birds, active burrows are found CDFW will be consulted for additional mitigation protection recommendations
- j) The project will prohibit work between dusk and dawn.
- k) The project will monitor open excavations for species. All open trenches and other excavations must be covered when not being actively worked on and require a qualified biologist to inspect even covered trenches and excavations three times a day as species can dig under covers and become entrapped and will then need to be removed before it is affected by temperature, injury, or predation.
- l) The project will regularly dispose of and remove trash and food from the site to discourage Ravens and other predators from entering the site.

- 1) **Desert Tortoise Mitigation Measures** will include the items listed above as a-l of mitigation measures.

Less than Significant with Mitigation Incorporated - The project has had two Biological reviews in the last year (Nov. 2013 and April 2014). None of the animals of concern were found on the site and there were no recent signs of any of the animals, including the Desert Tortoise, on the parcel slated for the project. The surrounding parcels were also reviewed for endangered species and nothing was discovered. The parcel has been highly disturbed with farming in the past and is presently fallow.

- 2) **San Joaquin Kit Fox Mitigation Measures** will include the items list above as all of mitigation measures.

Less than Significant with Mitigation incorporated - The project has had two Biological reviews in the last year (Nov. 2013 and April 2014). None of the animals of concern were found on the site and there were no recent signs of any of the animals, including the San Joaquin Kit Fox, on the parcel slated for the project. The surrounding parcels were also reviewed for endangered species and nothing was discovered. The parcel has been highly disturbed with farming in the past and is presently fallow. The Desert Kit Fox standardized recommendations for protection will be followed at all times before, during and after the project is constructed. During normal operations the project will be inspected for potential Kit Fox. With the Project protection fence in place it will be very unlikely that a Desert Kit Fox could ever get into the project site.

- 3) **Burrowing Owl Mitigation Measures** will include the items list above as a-l of mitigation measures.

Less than Significant with Mitigation incorporated - The project has had two Biological reviews in the last year (Nov. 2013 and April 2014). None of the animals of concern have been found on the site and there were no recent signs of any of the animals, including the Burrowing Owl, on the parcel slated for the project. The surrounding parcels were also reviewed for endangered species and nothing was discovered. The parcel has been highly disturbed with farming in the past and is presently fallow. With the protocol for pre-activity avoidance surveys and additional surveys 24 hours before starting any project related activities, it is very unlikely on this parcel that any Burrowing Owl sightings will occur.

- 4) **Mojave Ground Squirrel Mitigation Measures** will include the items list above as a-l of mitigation measures.

Less than Significant with Mitigation incorporated - The project has had two Biological reviews in the last year (Nov. 2013 and April 2014). None of the animals of concern were found on the site and there were no recent signs of any of the Mojave Ground

Squirrels on the parcel slated for the project. The surrounding parcels were also reviewed for endangered species and nothing was discovered. The parcel has been highly disturbed with farming in the past and is presently fallow. With the protocol for pre-activity avoidance surveys and additional surveys 24 hours before starting any project related activities.

- 5) **Bird Mortalities** - The project will inspect for bird mortalities during construction and operations and maintenance of the facility. The monitoring will be made scientifically to provide significant and meaningful comparison of results with other similar facilities that are conducting mortality monitoring.

Less than Significant with Mitigation incorporated - The project has had two Biological reviews in the last year (Nov. 2013 and April 2014). There were no signs of bird mortalities during the Biological reviews. The project will properly handle any discovered bird mortalities during all construction and operations and maintenance activities conducted in an ongoing manner at the project sight. A procedure will be developed and any employee that is conducting O&M at the project site will be educated on how to handle and record the sample for scientific significance.

Please refer to the Department of Fish and Wildlife document with the title for concurrence:
Proposed Negative Declaration (ND)
Conditional Use Permit 13-05 (CUP)
SCH No. 2014051042



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
1234 East Shaw Avenue
Fresno, California 93710
(559) 243-4005
www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director



June 4, 2014

William Weil, Jr.
City of California City Planning Department
21000 Hacienda Blvd
California City, California 93505

**Subject: Proposed Negative Declaration (ND)
Conditional Use Permit 13-05 (CUP)
SCH No. 2014051042**

Dear Mr. Weil, Jr.:

The California Department of Fish and Wildlife (Department) has reviewed the Proposed Negative Declaration (ND) submitted by the City of California City (City) for the American Solar Utilities, LLC solar project (Project). Project approval would allow the construction and operation of an 8 mega-watt photovoltaic solar facility on 39.54 acres (Assessor's Parcel Number 302-324-06). The Project consists of installation of 28,500 solar modules, racking system, perimeter chain-link fencing, security lighting and cameras, power inverters and transformers, switchgear, and underground wiring. It is unclear from the information provided as to where the distribution line from the Project site to the Point of Interconnection will occur. The Project also includes construction of new interior access roads and a 20-foot wide perimeter road for fire truck access. The Project is located east of Neuralia Road, approximately two and one-eighth mile north of California City Boulevard, in the City of California City, Kern County, California.

According to the Notice of Availability, the CUP will incorporate protection measures recommended in the Biological Resource Assessment as Exhibit A of Resolution 06-10-2014PC. While the Department appreciates the City's willingness to incorporate the recommendations provided in the Biological Resources Assessment in the CUP conditions, the Department recommends that all avoidance, minimization, and mitigation measures necessary to reduce Project-related impacts to less than significant levels be included as effective and enforceable Mitigation Measures in the California Environmental Quality Act (CEQA) document prepared for the Project. As such, the Department recommends the City prepare a Mitigated Negative Declaration (MND) to address potentially significant effects on the environment, specifically on biological resources. We recommend the City circulate the MND through State Clearinghouse for public comment.

According to the Biological Resource Assessment dated April 16, 2014, a line transect survey was conducted on the Project site on March 9, 2014 to inventory biological resources. Based on this survey effort, the Biological Resource Assessment concluded that special status species such as desert tortoise (*Gopherus agassizii*), which is listed as threatened under the California Endangered Species Act (CESA) and the federal Endangered Species Act (ESA); Mohave ground squirrel (*Xerospermophilus mohavensis*), which is listed as threatened under CESA; burrowing owl (*Athene cunicularia*), which is a State species of special concern; and desert kit

fox (*Vulpes macrotis ssp. macrotis*), which is protected under California Code of Regulations (CCR), Title 14, Chapter 5, Section 460 are not likely to occur on the Project site because the Project site and the surrounding lands do not contain suitable habitat due to their highly disturbed natures with off-road vehicle use and heavy sheep grazing and the limited numbers and quality of creosote bush. As mentioned above, the Biological Resource Assessment did recommend a number of minimization measures to be included as part of Project approval, which have been incorporated by reference into the CUP Conditions of Approval.

The Department concurs that the Project site appears to contain lower quality habitat than the surrounding lands, but does not concur with the conclusion that no sensitive species can occur on the Project site based on a one-day survey effort. The Department also does not concur with the scope and effectiveness of the minimization measures included in the Biological Resource Assessment. The Department recommends the City require the Project proponent to conduct species-specific surveys according to acceptable protocols, the results of which will help inform the City's analysis of potential Project-related impacts on these species and any additional species that depend on desert scrub and grassland habitats found on the Project site in an MND prepared for this Project. The City should also provide appropriate avoidance, minimization, and mitigation measures in an MND to reduce potentially significant biological impacts to less than significant levels. The Department also recommends the County include a cumulative impacts analysis to determine how this Project along with recently approved or reasonably foreseeable projects in the vicinity with similar impacts will affect biological resources. Our specific recommendations follow.

Desert Tortoise: The Project site is located within the range of desert tortoise and contains marginal habitat for this species. Surrounding lands contain more suitable habitat for desert tortoise. The Department recommends that Presence/Absence surveys following the United States Fish and Wildlife Service (USFWS) protocol (USFWS 2010), which can be found at http://www.fws.gov/ventura/species_information/protocols_guidelines/index.html, be conducted during the appropriate survey periods for the entire Project site, including any off-site gen-tie line route to determine the potential for desert tortoise use of the Project site and surrounding area. The Department further recommends that survey results be submitted to both the Department and USFWS. If surveys indicate the presence or potential presence of desert tortoise, the Department recommends the Project applicant consult with the Department and USFWS to develop avoidance, minimization, and mitigation measures. If "take" could occur as a result of Project implementation, acquisition of a State Incidental Take Permit (ITP) would be warranted prior to initiating ground-disturbing activities to comply with CESA. The Department also recommends the Project applicant consult with USFWS on potential impacts to this species.

If desert tortoise, their burrows, or other sign are found on the Project site or within the buffer around the Project site, the Department recommends the Project applicant consult with the Department and USFWS to obtain incidental take permits.

Mohave Ground Squirrel (MGS): The Project site is within the range of MGS and provides marginal habitat for the species. The Department recommends that protocol-level surveys utilizing our Mohave Ground Squirrel Survey Guidelines (DFG, 2010) as the basis be conducted in areas of potential habitat, including marginal habitat covering the entire Project site, including any gen-tie line routes. The Department recommends that the results of these surveys be submitted to the Department for evaluation. If the Department determines that the species could be present, consultation with the Department is warranted to develop avoidance,

minimization, and mitigation measures. If take cannot likely be avoided, acquisition of a State ITP would be warranted prior to initiating ground-disturbing activities to comply with CESA.

Burrowing Owl: The Department recommends that a qualified biologist conduct surveys and implement protection measures following the protocol and guidelines in the Department's 2012 *Staff Report on Burrowing Owl Mitigation*. If burrowing owls or their sign are detected on-site or within 500 feet of the site, the Department recommends off-site mitigation measures to compensate for the burrowing owl fatalities and habitat degradation and fragmentation that will likely result from Project implementation.

Specifically, the Department recommends the applicant quantify the area of all burrowing owl home ranges that the Project may impact and conserve an appropriate extent of burrowing owl habitat. The mitigation habitat should currently support burrowing owls but be capable of being managed to enhance the numbers of burrowing owls present, such that the number of burrowing owls likely impacted through the life of the Project can be replaced. The Department recommends the County adopt this approach and require the applicant to conserve off-site mitigation habitat in perpetuity and fund its management through a non-wasting endowment.

General Bird Protection Measures: The shrubs and grasses existing on (and in the vicinity of) the Project site may provide nesting habitat for songbirds. The Department recommends Project construction and decommissioning occur during the non-breeding bird season. However, if these activities must occur during the breeding season (February through mid-September), the Department recommends the City ensure that Project construction and decommissioning activities would not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes as referenced above.

No more than 10 days prior to work commencing; including staging, clearing, grubbing, decommissioning, etc., the Department recommends conducting surveys for active bird nests by a qualified wildlife biologist on the Project site and in a sufficient area around the work site to identify any nests that are present and to determine their status. A sufficient area means any nest within an area that could potentially be affected by the Project. In addition to direct impacts, such as nest destruction, nests might be affected by noise, vibration, odors, and movement of workers or equipment. The Department recommends identified nests be continuously surveyed for the first 24 hours prior to any construction related activities to establish a behavioral baseline. Once work commences, continuously monitor all nests to detect any behavioral changes as a result of the Project. If behavioral changes are observed, cease all work causing that change and consult with the Department for additional avoidance and minimization measures. Should Project activities be delayed or suspended for 10 days or more during the bird breeding season, conduct additional bird nest surveys prior to restarting activities.

If continuous monitoring of identified nests by a qualified wildlife biologist is not feasible, the Department recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species, a 500-foot no-disturbance buffer around the nests of unlisted raptors, and a 2,640-foot no-disturbance buffer around nests of listed bird species until the breeding season has ended, or until a qualified biologist has determined that the birds have fledged and are no longer dependent upon the nest or parental care for survival. Varying the distances of these no-disturbance buffers may be appropriate when there is compelling biological or ecological reason to do so (as determined by a qualified wildlife biologist). The Department

recommends consulting with the Department before implementing buffers different than those discussed above.

The Department recommends that the proposed meteorological towers be of monopole design to avoid the use of guy wires to reduce bird collision, injury, or death.

The Department recommends the City require as a mitigation measure in an MND that all solar mount poles, fencing poles, or other hollow vertical structures be capped immediately after installation to prevent bird entrapment and death.

American Badger: The Department recommends the County require the Project proponent to develop a scientifically sound survey methodology that is submitted to and approved in writing by the Department. The Department-approved American badger surveys should be conducted prior to starting Project-related activities. Otherwise, the Department recommends that a qualified biologist perform a pre-construction survey before starting Project-related activities. All burrows that have the potential to be used by American badger should be avoided by at least 50 feet and grassland habitat should be maintained throughout the Project site to provide appropriate foraging habitat. The Department recommends all perimeter fencing be raised five to seven inches above ground level and knuckled under to allow American badger movement into and out of the Project site.

Desert Kit Fox: Desert kit fox is protected under CCR, Title 14, Section 460, which prohibits take of the species at any time. The Department recommends that an MND be prepared for the Project and include measures to help ensure the Project complies with this regulation and to avoid the take of desert kit fox. The Department recommends the City require that a qualified biologist conduct surveys following the methodology in the *U.S. Fish and Wildlife Service Standardized Recommendations for Protection of the Endangered San Joaquin Kit Fox Prior to or During Ground Disturbance*, which can be found at http://www.fws.gov/sacramento/es/Survey-Protocols/Guidelines/Documents/kitfox_standard_rec_2011.pdf. If any active or potential dens are found on the Project site, consultation with the Department would be warranted for guidance on take avoidance measures for the desert kit fox. The Department recommends all perimeter fencing be raised five to seven inches above ground level and knuckled under to allow desert kit fox movement into and out of the Project site.

Listed Plant Species: The line transect survey conducted on the Project site in March did not produce observations of sensitive plant species. The Department recommends conducting repeated floristic surveys by a qualified botanist during the appropriate floristic period(s) to adequately assess the potential Project-related impacts to listed plant species (DFG, 2000; USFWS, 2000). If plants listed as threatened or endangered pursuant to CESA or other sensitive plant species are detected during surveys, consultation with the Department is warranted to discuss the potential for take under CESA or avoidance and minimization measures, respectively. Plants listed as threatened or endangered under CESA cannot be addressed by methods described in the Native Plant Protection Act without incidental take authority secured under Sections 2080.1 or 2081 of the Fish and Game Code.

Additionally, the Department concurs with the following measures proposed in the Biological Resource Assessment included as Exhibit A of Resolution 06-10-2014PC with modifications and recommends that the City includes these as Mitigation Measures in an MND.

First, the Department recommends that all the Mitigation Measures proposed specifically for desert tortoise be expanded to include all species with the potential to occur on the Project site or in its immediate vicinity, such as desert kit fox, Mohave ground squirrel, American badger, and burrowing owl.

Second, the Department recommends the City make it clear that all Mitigation Measures apply to all activities associated with construction, operations and maintenance, and decommissioning.

- 1) Developing and implementing an employee training program (program). The Department recommends additional language be added to require employee training at the time the employee starts work and at least once a year after that.
- 2) Conducting pre-construction surveys for all potential species. The Department recommends requiring all survey results be submitted to the Department and USFWS (for federally-listed species) for evaluation prior to starting Project-related activities.
- 3) Requiring a qualified biological monitor be present during construction activities. The Department recommends the City remove the remainder of the language that discusses exception to this. Require a biological monitor at all times during construction activities.
- 4) Clearly delineating construction limits on the ground. The Department recommends the City include additional language in this measure to require the Project applicant to consult with the Department and USFWS before installing exclusionary fencing, which would warrant an ITP if desert tortoise or Mohave ground squirrel are found on the Project site during protocol or pre-construction/activity surveys.
- 5) Requiring inspection of vehicles for sensitive species prior to use. The Department recommends the City add to this measure to require inspections of all vehicles and equipment before use. The Department recommends inspections include nesting birds, species, and any burrows that may be used by species.
- 6) Prohibiting work between dusk and dawn. The Department recommends the qualifier, "in areas supporting native vegetation be removed from this measure.
- 7) Monitoring open excavations for species. The Department recommends the City include additional language to require open trenches and other excavations be covered when not being actively worked on and requiring a qualified biologist to inspect even covered tranches and excavations three times a day as species can dig under covers and become entrapped and will then need to be removed before it is affected by temperature, injury, or predation.
- 8) Regularly disposing and removing trash and food from the site so as to discourage ravens and other predators. The Department has no additional comments for this measure.
- 9) Using USFWS's *Standardized Recommendations for Protection of the Endangered San Joaquin Kit Fox Prior to or During Ground Disturbance* to address desert kit fox avoidance, minimization, and mitigation. The Department has no additional comments on this measure.

- 10) Surveying for burrowing owl prior to starting construction if starting after February 15. Burrowing owl can occur on a site year-round. The Department recommends the City remove the date from this measure. See our comments above for burrowing owl. In addition to the complete presence/absence surveys, the protocol also recommends pre-activity avoidance surveys and additional surveys 24 hours before starting Project-related activities.
- 11) Inspecting for bird mortalities during operations and maintenance. The Department recommends the City require that this monitoring is made scientifically significant to allow meaningful comparison of results with other similar facilities that are conducting mortality monitoring.

Trustee Agency Authority

The Department is a Trustee Agency with the responsibility under CEQA for commenting on projects that could impact plant and wildlife resources. Pursuant to Fish and Game Code Section 1802, the Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. As a Trustee Agency for fish and wildlife resources, the Department is responsible for providing, as available, biological expertise to review and comment on environmental documents and impacts arising from project activities, as those terms are used under CEQA.

Responsible Agency Authority

Incidental Take Permit: The Department has regulatory authority over projects that could result in the take of any species listed by the State as threatened or endangered, pursuant to Fish and Game Code Section 2081, part of CESA. If the Project could result in the take of any species listed as threatened or endangered under CESA, the Department may need to issue an ITP for the Project. CEQA requires a Mandatory Finding of Significance if a project is likely to substantially impact threatened or endangered species (Sections 21001{c}, 21083, Guidelines Sections 15380, 15064, 15065). Impacts must be avoided or mitigated to less than significant levels unless the CEQA Lead Agency makes and supports a Statement of Overriding Consideration (SOC). The CEQA Lead Agency's SOC does not eliminate the Project proponent's obligation to comply with Fish and Game Code Section 2080.

Fish and Game Code Jurisdiction

Bird Protection: The Department has jurisdiction over actions which may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Sections of the Fish and Game Code that protect birds, their eggs and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

Fully Protected Species: The Department also has jurisdiction over fully protected species of birds, mammals, amphibians, reptiles, and fish, pursuant to Fish and Game Code Sections 3511, 4700, 5050, and 5515. Take of any fully protected species is prohibited except for necessary scientific research, and the Department cannot authorize their take under the

Project. The Department recommends the draft EIR for this Project include appropriate species-specific measures to avoid take of these species.

Water Quality Protection: Pursuant to Fish and Game Code Section 5650, it is unlawful to deposit in, permit to pass into, or place where it can pass into the "Waters of the State" any substance or material deleterious to fish, plant life, or bird life, including non-native species. Deleterious materials can include, but are not limited to, petroleum products, concrete, and sediment.

Thank you for providing us the opportunity to comment on this ND for this renewable energy Project. If you have any questions regarding these comments, please contact Lisa Gymer, Senior Environmental Scientist (Specialist), at the address provided on this letterhead, by telephone at (559) 243-4014, extension 238, or by electronic mail at Lisa.Gymer@wildlife.ca.gov.

Sincerely,



Jeffrey R. Single, Ph.D.
Regional Manager

cc: State Clearinghouse
Office of Planning and Research
1400 Tenth Street
Sacramento, California 95812-3044

Ray Bransfield
United States Fish and Wildlife Service
2493 Portola Road, Suite B
Ventura, California 93003

American Solar Utility, LLC
c/o Dennis Mueller
6360 Chatswood Drive
Martinez, California 94553

ec: Julie Vance
Lisa Gymer
California Department of Fish and Wildlife

Literature Cited

Department of Fish and Game, 2012. Staff Report on Burrowing Owl Mitigation. State of California Natural Resources Agency, Department of Fish and Game, March 7, 2012.

Department of Fish and Game, 2003. Mohave Ground Squirrel Survey Guidelines. California Department of Fish and Game. January 2003.

Department of Fish and Game, 2000. Guidelines for Assessing Effects of Proposed Projects on Rare, Threatened and Endangered Plants and Natural Communities. California Department of Fish and Game. May 2000.

USFWS, 2010. Preparing for Any Action That May Occur Within the Range of the Mojave Desert Tortoise (*Gopherus agassizii*). United States Fish and Wildlife Services.

USFWS, 2000. Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed, Proposed and Candidate Plants. United States Fish and Wildlife Service. January 2000.

Lahontan Regional Water Quality Control Board

June 6, 2014

File: Environmental Doc Review
Kern County

William T. Weil, Jr.
City Manager/Planning Director
California City
21000 Hacienda Blvd.
California City, CA 93505

**COMMENTS ON THE NOTICE OF COMPLETION OF A NEGATIVE DECLARATION,
AMERICAN SOLAR LLC, CONDITIONAL USE PERMIT13-05, KERN COUNTY,
STATE CLEARINGHOUSE NUMBER 2014051042**

The California Regional Water Quality Control Board, Lahontan Region (Water Board) staff received a Notice of Completion of an Initial Study Environmental Checklist and Negative Declaration (IS/ND) for the above-referenced project (Project) on May 13, 2014. The IS/ND was prepared by the City of California City (City) and submitted in compliance with provisions of the California Environmental Quality Act (CEQA). Water Board staff, acting as a responsible agency, is providing these comments to specify the scope and content of the environmental information germane to our statutory responsibilities pursuant to CEQA Guidelines, California Code of Regulations, title 14, section 15096. Based on our review of the materials provided, we have determined that mitigation measures have been incorporated into the Project that reduce potential water quality and biological impacts to a less than significant level. On that basis, we recommend that the document more appropriately be referred to as a "Mitigated Negative Declaration." In addition, we have determined that a combination of sediment and erosion control best management practices (BMPs) must be implemented to effectively treat post-construction storm water runoff during the life of the Project. Our comments on the Project are outlined below.

PROJECT DESCRIPTION

The proposed Project is an 8 megawatt (MW) photovoltaic (PV) solar generating facility on approximately 39.54 acres near the intersection of Neuralia Road and Hans Boulevard in California City, Kern County. Project components include the installation of 28,500 solar modules on 14.5 acres of the Project site, construction of a road network on 20 acres of the Project site, and installation of above- and below-ground utilities. The Project site is currently designated Open Space/Residential Agricultural. The setting is rural desert vacant land with no utilities or structures for a minimum one-half mile in any direction.

WATER BOARD'S AUTHORITY

All groundwater and surface waters are considered waters of the State. Surface waters include streams, lakes, ponds, and wetlands, and may be ephemeral, intermittent, or perennial. All waters of the State are protected under California law. State law assigns

5. The IS/ND describes habitat protection measures for various rare and endangered species that have the potential to occur on the Project site. The Water Board protects beneficial uses of surface and ground waters, which includes the wildlife habitats that are maintained by these waters. To that end, we request that the environmental document clearly list all of the biological mitigation measures incorporated into the Project and describe how these measures reduce potential impacts to a less than significant level. These mitigation measures must be clearly identified in the Conditional Use Permit issued for the Project.
6. In general, these types of projects have the potential to hydrologically modify natural drainage systems. Design alternatives that are compatible with low impact development (LID) should be considered. LID components include: maintaining natural drainage paths and landscape features to slow and filter runoff and maximize groundwater recharge; managing runoff as close to the source as possible; and maintaining vegetated areas for storm water management and onsite infiltration.
7. Construction staging areas should be sited in areas outside stream channels and other surface waters on or around the Project site. Buffer areas should be identified and exclusion fencing used to protect the water resource and prevent unauthorized vehicles or equipment from entering or otherwise disturbing any stream channels. Construction equipment should use existing roadways to the extent feasible.
8. All temporary impacts should be restored (recontoured and revegetated) to match pre-Project conditions.
9. Obtaining a permit and conducting monitoring does not constitute adequate mitigation. Development and implementation of acceptable mitigation is required. The environmental document must specifically describe the BMPs and other measures used to mitigate Project impacts.

PERMITTING REQUIREMENTS

A number of activities associated with the proposed Project appear to have the potential to impact waters of the State and, therefore, may require permits issued by either the State Water Resources Control Board (State Water Board) or Lahontan Water Board. The required permits may include:

10. Land disturbance of more than 1 acre may require a CWA, section 402(p) storm water permit, including a National Pollutant Discharge Elimination System (NPDES) General Construction Storm Water Permit, Water Quality Order (WQO) 2009-0009-DWQ, obtained from the State Water Board, or an individual storm water permit obtained from the Lahontan Water Board; and
11. Streambed alteration and/or discharge of fill material to a surface water may require a CWA, section 401 water quality certification for impacts to federal waters (waters of the U.S.), or dredge and fill waste discharge requirements for impacts to non-federal waters, both issued by the Lahontan Water Board.

Please be advised of the permits that may be required for the proposed Project, as outlined above. Should Project implementation result in activities that will trigger these permitting actions, the Project proponent must consult with Water Board staff. Information regarding these permits, including application forms, can be downloaded from our web site at <http://www.waterboards.ca.gov/lahontan/>.

Thank you for the opportunity to comment on the IS/ND. If you have any questions regarding this letter, please contact me at (760) 241-7376 (jan.zimmerman@waterboards.ca.gov) or Patrice Copeland, Senior Engineering Geologist, at (760) 241-7404 (patrice.copeland@waterboards.ca.gov).



Jan M. Zimmerman, PG
Engineering Geologist

cc: State Clearinghouse (SCH 2014051042)
(via email, state.clearinghouse@opr.ca.gov)
Tobi Tyler, Lahontan Water Board
(via email, tobi.tyler@waterboards.ca.gov)
California Department of Fish and Wildlife
(via email, David.Hacker@wildlife.ca.gov)

POWER PURCHASE AGREEMENT (PPA)

For the purchase of energy
supplied by renewable resources

The City of California City
Located within Kern County, California

Contacts:

Power Purchase Agreement Attachments “PPA” and Exhibits

Power Purchase Agreement (PPA)

Exhibit 1 – Pricing, Guaranteed Minimum Production, Billing Methodology
Exhibit 2 – Billing Formulas and Examples
Exhibit 3 – Sample Invoice
Exhibit 4 – Termination Fee Schedule

POWER PURCHASE AGREEMENT (PPA)

THIS POWER PURCHASE AGREEMENT (the “PPA”) is made this **19th** day of **August, 2014** (the “**Effective Date**”) by and between **The City of California City** (“**BUYER**”) located at 21000 Hacienda Blvd. California City, CA 93505 and **American Solar Utility LLC** (“**SELLER**”) a California limited liability company located at 1470 Civic Ct. Concord, CA 94520. BUYER and SELLER are sometimes referred to in this PPA collectively as the “**Parties**” and each, individually, as a “**Party**”.

WHEREAS, BUYER and SELLER desire to agree to terms for the production and sale of renewably generated electricity to serve BUYER’s facilities by way of this PPA. BUYER has pumping stations and other uses of electricity within the City boundaries and owned property that SELLER plans on offsetting that energy usage with energy generated from SELLER’s System.

WHEREAS, SELLER has leased [REDACTED] of property within the city limits of California City and desires to build a [REDACTED] PV solar system for generating renewable energy electricity. A portion of the property will be used to supply BUYER power for net-metering interconnection to the Southern California Edison grid.

NOW, THEREFORE, in consideration of good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. DEFINITIONS

In addition to the terms that are defined elsewhere in this PPA, the following terms have the following meanings when used herein:

- 1.01 “**Annual Degradation Factor**” is defined in Exhibit 1 Section 2.
- 1.02 “**Applicable Laws**” refers to the laws of the State of California.
- 1.03 “**BUYER**” means the City of California City (also known herein as the “**City**”), that is within the County of Kern and State of California. BUYER includes all of its governmental organizations or agencies.
- 1.04 “**Commercial Operation Date**” means the date of receipt of Southern California Edison (SCE) approval for operation of the system.
- 1.05 “**Contract Price**” means the price of Electricity pursuant to Exhibit 1 of the PPA.
- 1.06 “**Electricity**” means electrical energy, measured in kilowatts and kilowatt-hours that (a) is produced by the System, (b) is delivered by SELLER to BUYER at the Electrical Interconnection Point(s), and (c) conforms to applicable utility and/or authoritative regulatory body standards.
- 1.07 “**Electrical Interconnection Point**” means the point(s) specified in the project design where the System connects to the existing electrical systems or newly established electrical systems serving the Facilities.

- 1.08 **“Energy Management System”** means the American Solar Utility LLC automatic controls system capable of receiving energy production data from the System.
- 1.09 **“Energy Service Provider”** means an investor owned Utility, a municipal utility, or other electricity provider that serves electricity commodity to the Facility and/or BUYER. The Energy Service Provider herein is Southern California Edison (hereinafter known as **“SCE”** or **“Utility”**).
- 1.10 **“Environmental Law(s)”** means each and every applicable federal, state, and local law, statute, ordinance, regulation, rule, judicial or administrative order or decree, permit, license, approval, authorization or similar requirement of each and every federal, state, and local governmental agency or other governmental authority pertaining to the protection of human health and safety or the environment.
- 1.11 **“Expected Production”** set forth in Exhibit 1.
- 1.12 **“Facility”** or **“Facilities”** means the land or improvements owned, leased, and/or operated by either Party on which the System will be installed; possible system installation on BUYER property dependent on BUYER’S written approval. The planned System to be built will be located on SELLER’s leased property with a portion of said property dedicated to producing electricity to the BUYER through a Net-Metering arrangement.
- 1.13 **“Failure to Achieve Guaranteed Minimum Production Penalty”** set forth in Exhibit 1.
- 1.14 **“Fiscal Year”** means BUYER’S Fiscal Year, beginning on July 1st of each calendar year and ending on June 30th of the following calendar year.
- 1.15 **“Force Majeure”** means an act of God or nature (such as earthquakes, fires, riots), actions or inaction’s of a regulatory authority, or actions of others such as strikes, lockouts, or other industrial disturbances, not within the control or arising from the fault of the party claiming Force Majeure. Any party claiming Force Majeure shall advise the other party as soon as possible of the occurrence of the event and shall provide the other party with the basis of the claim, in writing, within ten (10) days of the occurrence of the event. Parties shall make reasonable efforts to avoid the adverse impacts of a Force Majeure and to resolve the event or occurrence once it has occurred in order to resume performance. A change in law (City, County, State or Federal) or changes made by the California Public Utilities Commission (**“CPUC”**) or Federal Energy Regulatory Commission (**“FERC”**) that negatively affects the ability of the SELLER to provide the electricity to the BUYER constitute a Force Majeure action..
- 1.16 **“Guaranteed Minimum Production”** as described in Exhibit 1.
- 1.17 **“Hazardous Material”** means, without limitation, any substance defined as hazardous substance, hazardous waste, extremely hazardous waste, or material known to cause cancer or reproductive toxicity, under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. Section 1317 et seq.; Sections 25115,

25117, 25122.7, 25140, 25249.5, 25249.8, 25281, 25316 or 25501 of the California Health & Safety Code; and any substance regulated pursuant to any Environmental Law(s). The term Hazardous Material includes, but is not restricted to, asbestos, polychlorobiphenyls ("**PCBs**") and petroleum.

- 1.18 "**Interest Rate**" means the then-current prime rate for Wells Fargo, N.A., as that rate is announced from time to time.
- 1.19 "**Lender**" means any financial institution, private Limited Liability Company, Corporation, or other privately held entity to which SELLER has pledged or collateral assigned SELLER's rights under this PPA and its rights to payment and a first security right in the System.
- 1.20 "**Operational Year**" means each twelve-month period commencing on each anniversary of the Commercial Operation Date.
- 1.21 "**Net-Metering**" is a service to an electric consumer of the Utility company under which electric energy generated by that electric consumer from an eligible on-site generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric Utility to the electric consumer during the applicable billing period.
- 1.22 "**PPA**" means this Power Purchase Agreement, in its entirety, between the Parties for the purchase and sale of Electricity from the System.
- 1.23 "**Renewable Energy Credit/s**" and or "**REC/s**" means renewable energy credit(s) or; certificates, emission reduction credits, investment credits, production tax credits, emission allowances, green tags, tradable renewable credits, and or products related to renewable energy production and is a commodity that is; based upon system size, and/or separated/unbundled from electric service or production.
- 1.24 "**SELLER**" means the party to this PPA that will install and own the System and sell Electricity to the BUYER at the Facility. This may consist of a new or different entity or fund that has been designated herein as the SELLER.
- 1.25 "**State**" means the State of California.
- 1.25 "**System**" means the integrated assembly of photovoltaic panels, mounting assemblies, inverters, converters, meters, lighting fixtures, transformers, ballasts, disconnects, combiners, switches, wiring devices, and wiring installed at the Facility for the purpose of generating Electricity to be purchased by the BUYER.
- 1.26 "**Term**" has the meaning set forth in Section 3.
- 1.27 "**Termination Fee**" means the payment by BUYER, described in Exhibit 4 hereof, upon early termination of this PPA.
- 1.28 "**Utility**" means the local provider of electric transmission and distribution services to BUYER in the absence of the System. This is Southern California Edison which serves the California City area electricity through the electrical grid.

2 AGREEMENT

- 2.1 Sale of Electricity by SELLER. SELLER will sell to BUYER all grid tied Electricity produced by the System during the Term, at the price per kilowatt-hour as specified in Exhibit 1. SELLER maintains all rights to the REC/s produced and or generated from the System and consistent with Section 6 and Exhibit 1 Section 5.
- 2.2 Purchase of Electricity by BUYER. BUYER will purchase from SELLER all Electricity that meets the specifications set forth in Exhibit 1. Notwithstanding the foregoing, nothing contained within this Agreement shall prevent BUYER from entering into an agreement with any other party regarding purchase of electricity.
- 2.3 Installation of System Components. SELLER will install the system components necessary to deliver the renewable energy provided by SELLER at or on the Facility. The renewable energy will be generated at the facility and is solely at the option of the SELLER to determine the best solution for each site and/or selected for offset under this PPA.
- 2.4 Services Provided by SELLER. SELLER will provide electricity pursuant to Exhibit 1 of this PPA.
- 2.4.1 METER. SELLER will measure the actual amount of Electricity generated and the amount utilized / delivered to BUYER by the SELLER at each of the Electrical Interconnection Points utilizing a commercially available revenue grade interval data-recording meter (the "**Meter**"). The Meter and its associated service account/s are to be under the name of the BUYER with the Utility. Meter location/s and allocated Electricity from the System in Kilowatt Hour/s ("**kWh/s**") to those Meters will be agreed to by the Parties in the application sent for Net-Metering to the Utility. The System located at the Facility will generate Electricity that passes through the Meter and records the generated renewable energy Electricity in Kilowatts. The Meter is then downloaded and provides incremental time periods that then are translated into kWh's and then credit applied for Time of Day ("**TOD**") or Time of Use ("**TOU**") multipliers for economic or dollar value provided in Utility company Tariff. This value offsets the charges that the Utility bills BUYER for.
- a. The Meter shall be installed and maintained at SELLER's expense and shall have standard industry telemetry capabilities. SELLER shall make the Meter data readily available in secure web format to BUYER upon request. Should the facility be located on BUYER owned and operated property, BUYER will allow internet access for meter reading through the telecom room and allow connection through the buildings or facilities to connect to that circuit. Local electrical power will be supplied by BUYER, via the meter/s, to power secure router/s and switch/es.
- b. SELLER will have the Meter calibrated every five years at SELLER's expense by a certified, independent, third party. SELLER shall provide notice of the testing to BUYER at least ten (10) business days prior to the test date. SELLER shall provide signed copies of the results of the Meter calibration test BUYER. SELLER shall test the Meter at any reasonable time upon the request of BUYER. BUYER shall reimburse SELLER for the cost of any test requested by BUYER, unless such testing demonstrates that the Meter was operating outside of industry standard tolerance allowances or as such defined by the California Public Utilities Commission for meter calibration and operation.

- c. If a Meter is determined to be inaccurate and such inaccuracy exceeds industry standard tolerance allowances, as such are defined by the California Public Utilities Commission for electric meters, and if it is unknown when the Meter inaccuracy commenced, then the invoices covering the period of time since the last Meter test shall be adjusted for the amount of the inaccuracy on the assumption that the inaccuracy persisted during one half of such period. Adjustments that benefit the BUYER shall be reflected on the next invoice following the date of determination of the inaccuracy. Adjustments that benefit SELLER shall be included on SELLER's next invoice to the BUYER.

2.4.2 Billing System: SELLER will bill BUYER and BUYER will pay SELLER for Electricity at the rate and in the manner set forth in Exhibits 1, 2, and 3.

2.4.2.1 Customer Service: SELLER will provide the following during the Term:

- a. SELLER will produce and send bills to BUYER or its designee within fifteen (15) business days after the end of each billing cycle.
- b. SELLER will post Meter reads to a password protected web site and make this web site available to BUYER.

2.4.2.2 Billing Validation and Verification. BUYER may during the Term conduct occasional billing inquiries, validation and verification activities, or reconciliation procedures. During such BUYER inquiries, activities, and procedures, SELLER shall provide BUYER with the data and other information, including any billing algorithms and interval Meter data representing System output, used to generate billing determinants. BUYER will use its best efforts to provide or arrange for Utility metered interval data and billing data and information that can support SELLER's billing process, either directly through a data file transmission, receipt through regular mail services, or through the appropriate and established arrangement with the Utility. For purposes of this paragraph, Parties agree that "**Best Efforts**" means that the BUYER will authorize the applicable Utility to provide metered interval data and billing data and information directly to the SELLER, as per the Utility's rules and applicable regulations.

2.5 Maintenance of Facility. At all times during the term of this Agreement, SELLER shall maintain the System in compliance with all performance standards under federal, state, or local regulation and shall ensure the System is safe and in good working condition.

3 **TERM AND TERMINATION**

TERM. The Term of this PPA shall commence on the Effective Date and shall continue to apply for a period ending at 11:59 P.M. on the day preceding the twentieth anniversary of the Commercial Operation Date unless terminated earlier by a party pursuant to the terms of this PPA.

3.1 BUYER Termination Rights. BUYER shall have the right to terminate this PPA as follows:

3.1.1 For Cause. BUYER may terminate this PPA (a) pursuant to Section 10.2, below as a result of SELLER's default; or (b) thirty (30) days after delivery of written notice to SELLER and any Lender who has a security interest in the System if a Force Majeure event has

occurred and SELLER is unable to produce Electricity for more than 180 consecutive days.

- 3.1.2 For Convenience. In addition to the termination rights in Section 3.1.1, above, BUYER may terminate this PPA for convenience, sixty (60) days after delivery of written notice to SELLER and any Lender. If BUYER terminates this PPA for convenience pursuant to this section BUYER shall pay SELLER a Termination Fee as described and calculated in Exhibit 4, attached.
- 3.2 SELLER Termination Rights. SELLER shall have the right to terminate this PPA at any time on ninety (90) days written notice to BUYER, without further liability, if any of the following occur: a) If, prior to the first date of scheduled delivery of Electricity, SELLER determines that the System cannot be built as planned or that its construction and operation would not be economically viable for the SELLER, including SELLER's determination that the installation of the System is not economically viable as a result of the need to comply with any environmental regulation. SELLER will be responsible for repairing any damage to any BUYER owned or leased property arising from activities conducted by SELLER pursuant to this PPA and shall reimburse BUYER for any direct costs associated with negotiation, review and approval of the PPA, reasonable alteration to the physical area in or around the Facility site if Facility is located on BUYER owned or leased property; b) Upon occurrence of a Force Majeure, including, but not limited to; SELLER's inability, after diligent efforts, to obtain or maintain required approval or permits from any governmental authority for the installation or operation of the System, change to the contracts signed with SCE, or inability to receive any incentive or REC, by SELLER, material to the financial viability of the system; c) In the event that, through no fault of SELLER and for other than a Force Majeure event, the System is permanently shut down due to renovation, damage, destruction or closure of the Facility, and the Parties cannot agree upon an alternative location for the System (as defined in Section 12.2); d) Upon an Event of Default by BUYER (as defined in Section 10.3).
- 3.3 Removal upon Termination. It is understood and agreed that the BUYER, as a municipal entity, has a strong interest in preserving a compatible and harmonious environment within the City and an interest in preventing nuisances and/or eyesores resulting from abandoned or disused facilities. Upon termination of this Agreement, SELLER shall, within three hundred and sixty five days (365) days, remove the System at its own cost and shall otherwise restore the real property underlying the System to its pre-installation condition, reasonable wear and tear and casualty excepted
- 3.4 Notwithstanding the foregoing, SELLER will be excused from the obligation to remove the System to the extent SELLER has committed to sell Electricity from the System, or portion thereof, to another party, as evidenced by an executed agreement for such sale

4 ENVIRONMENTAL COMPLIANCE

If SELLER has not yet completed its analysis and related obligations under CEQA as of the Effective Date, SELLER shall not be required to install the System until the CEQA is completed and a building permit has been issued by the lead governmental agency.

5 GUARANTEED MINIMUM PRODUCTION

SELLER has estimated that the System will deliver the Expected Production as indicated in Exhibit 1. SELLER Guaranteed Minimum Production from the System is defined as and

calculated by multiplying 80% of the Expected Production from the System over the course of an Operational Year commencing with the Commercial Operation Date. If SELLER fails to meet the Guaranteed Minimum Production requirement on an Operational Year basis, for reasons other than the BUYER's shading of the System, as described in Section 13 below, SELLER will pay BUYER, or BUYER may, at its option, offset against future payments due SELLER, an amount equal to the Failure to Achieve Guaranteed Minimum Production Penalty. The formula for calculating the Failure to Achieve Guaranteed Minimum Production Penalty is found in Exhibit 1 section 7 to this PPA. If SELLER fails to pay BUYER the amount due for any annual shortfall of the Guaranteed Minimum Production within 60 days after notice to make such payment, BUYER shall have the express right to withhold payment, up to the shortfall amount due. BUYER agrees that System performance will degrade by an Annual Degradation Factor as indicated in Exhibit 1 Section 2 of this PPA for every year of operation. As reflected in Table 1.1 of Exhibit 1, the Expected Production will be reduced by the Annual Degradation Factor every Operational Year for the term of this PPA. The Annual Degradation Factor will be applied to the kWh energy values of the Expected Production at the beginning of each Operational Year. A determination on whether or not the SELLER has met the Guaranteed Minimum Production will be made on a biennial basis commencing with the end of the second Operational Year after Commencement of Operations. An Annual Degradation Factor will be applied on a pro rata basis for System operations that do not span an entire Operational Year by multiplying the Annual Degradation Factor times the fraction of the Operational Year.

6 POTENTIAL REVENUE FROM RENEWABLE ENERGY CREDITS

SELLER will own 100% of all REC's associated with this project. SELLER may, at its sole discretion, market and/or sell the REC's at any time. All proceeds of REC sales will belong to SELLER.

7 REBATES AND OTHER INCENTIVES

Any grant, rebate, incentive payment or credit by the Utility, the Federal Government, the California Energy Resources Conservation and Development Commission or any other agency paid as a result of the design, construction, operation and/or grid connection of the System shall inure to the benefit of the SELLER. BUYER will cooperate in good faith, at no cost to BUYER, as necessary to enable SELLER to obtain all available incentives and rebates, including assignment to SELLER of any rebate or incentive received by BUYER.

7.1 CALIFORNIA SOLAR INITIATIVE ("CSI")

The SELLER will file / apply for a CSI reservation for this project to the California Center for Sustainable Energy ("CCSE") in coordination with the Utility. The BUYER shall be designated as the HOST and SELLER as the OWNER and APPLICANT as required in the CSI Handbook. BUYER agrees to pass through all incentive payments received to the SELLER within 30 business days from receiving payment/s. If the CSI payment is not passed through within the 30 day period then the BUYER shall be charged 2.25% interest per month on the balance of the payment not received. All cost associated with the application for a reservation will be paid for by the SELLER. The BUYER shall reimburse the SELLER for all application and reservation fees and cost if the SELLER does not build the Systems and receive the incentive but BUYER is able to use the incentive. This

reimbursement shall be made upon a re-designation, change, and or assignment of the OWNER and or APPLICANT named on the reservation. This reimbursement shall be made within 30 business days from the change in the reservation document submitted to the Utility and or CCSE and shall not exceed the amount of the incentive received by Buyer. The SELLER has included the incentive to lower the System development cost to for that SELLER can provide a lower kWh Electricity rate that is reflected in this PPA.

8 EMERGENCIES

In cases of emergency in which BUYER determines that the continued operation of the System presents an imminent threat requiring immediate action to prevent or mitigate the loss or impairment of life, health, property or essential public services, the Parties agree that BUYER may disconnect the System from the point of interconnection prior to notification of SELLER. If BUYER disconnects the System pursuant to this provision, BUYER will notify SELLER no later than 8 hours after the System is disconnected. The Parties agree that only SELLER or an agent designated by SELLER will be authorized to reconnect the System after the System is disconnected by BUYER pursuant to this emergency section.

9 COMMUNICATIONS AND CONTACTS

The representatives of the parties during the term of this PPA will be:

EMERGENCY CONTACT SELLER:	EMERGENCY CONTACT BUYER:
Name: Dennis R. Mueller	Name: TBD
Phone: 916-223-0062	Phone:
Email: dmueller@americansolarutility.com	Email:

10 DEFAULT

10.1 Waiver. A waiver by either party of any term, covenant or condition of this PPA shall not constitute a subsequent waiver of the same or any performance thereof by the other party.

10.2 Default by SELLER. At the option of BUYER as the non-defaulting party, the occurrence of any of the following shall constitute a material default and breach of this PPA:

10.2.1 SELLER's failure to deliver Electricity, that is not through a Force Majeure event/s, from the System for a continuous period of ninety (90) days or for one hundred and twenty (120) days in any six month period.

10.2.2 Unreasonable interference by SELLER with the operations of BUYER at the Facility, if the interference is curable by suspension of operation of the System and SELLER fails to suspend operation of the System within 96 hours of BUYER'S notice to SELLER regarding the interference.

10.2.3 The filing of a petition to have SELLER adjudicated bankrupt, or the filing of a petition for reorganization or arrangement under any law relating to bankruptcy unless in the case of

a petition filed against SELLER, the same is dismissed within one hundred and twenty (120) days; or the appointment of a trustee or receiver to take possession of substantially all of SELLER's assets located on the Facility or of SELLER's interest in this PPA, when possession is not restored to SELLER within ninety (90) days; or the attachment, execution or other judicial seizure of substantially all of SELLER's assets located on the Facility or of SELLER's interest in the License, when such seizure is not discharged within one hundred and twenty (120) days.

10.2.4 Failure by SELLER to perform or comply with any other material term of the PPA within ninety (90) days after written notice to SELLER and any Lender by BUYER, unless BUYER agrees in writing to a longer period to cure the default.

10.2.5 BUYER Remedies. If any default by SELLER shall continue uncured, following notice of default where required herein, for the period applicable to the default alleged, BUYER may resort to any one or more of the following remedies:

10.2.6 Termination. BUYER may terminate this PPA by providing written notice to SELLER indicating that the PPA has been terminated.

10.2.7 Recovery of Damages and Expenses. BUYER may recover from SELLER any damages and expenses reasonably incurred as a result of SELLER's Default, including attorneys' fees and the cost to repair the Facility to near pre-installation condition. BUYER is not entitled to damages for future energy production or saving after the termination of the PPA has occurred and thereafter, including the entire remaining Term of this PPA and residual value. BUYER agrees not to claim damages against SELLER for loss of business, loss of revenue or business interruption.

LIMITATION OF LIABILITIES: EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS PPA, NEITHER BUYER NOR SELLER NOR ANY OF EITHER OF THEIR SUCCESSORS OR ASSIGNS, OR THE RESPECTIVE MANAGERS, SUPERVISORS, SHAREHOLDERS, MEMBERS, PARTNERS, ASSIGNS, DIRECTORS, OFFICERS, PUBLIC OFFICIALS, AGENTS OR EMPLOYEES OR REPRESENTATIVES OF EITHER OF THEM, SHALL BE LIABLE TO THE OTHER FOR CONSEQUENTIAL, EXEMPLARY, INDIRECT OR INCIDENTAL LOSSES OR DAMAGES, INCLUDING REVENUES FROM LOST POWER, LOSS OF USE, COST OF CAPITAL, LOSS OF GOODWILL, LOSS OF REVENUES OR PROFIT AND THE BUYER AND SELLER EACH HEREBY RELEASES THE OTHER AND EACH OF SUCH PERSONS FROM ANY SUCH LIABILITY. THE FOREGOING EXCLUSION SHALL NOT BE CONSTRUED TO LIMIT RECOVERY UNDER ANY INDEMNITY. IN NO EVENT SHALL EITHER PARTY'S TOTAL AGGREGATE LIABILITY FOR THE DAMAGES OF THE OTHER PARTY (INCLUDING PERSONS CLAIMING THROUGH THE OTHER PARTY) UNDER ANY EQUITY, COMMON LAW, CONTRACT, ESTOPPEL, NEGLIGENCE, TORT, STRICT LIABILITY OR OTHER THEORY, REGARDLESS OF THE FORM OF ACTION, ARISING OUT OF THE AGREEMENT EXCEED THE PPA REMAINING YEARLY SUMS AS SHOWN IN EXHIBIT 1, SECTION 1, TABLE 1.1, COLUMN 80% OF EXPECTED COST.

10.2.8 Right of Offset. BUYER may elect to offset any damages resulting from SELLER's default against any monies owing or to be owed to SELLER under this PPA. If BUYER elects not to terminate the PPA following an Event of Default by SELLER then the default shall be

cured and put the SELLER back into good standing, this election shall not constitute a waiver by BUYER as to any subsequent Event of Default by SELLER.

10.3 Default by BUYER. At the option of SELLER as the non-defaulting party, the occurrence of any of the following shall constitute a material default and breach of this PPA:

10.3.1 BUYER'S failure to pay undisputed invoices for a continuous period of 180 or more days

10.3.2 The renovation, damage, destruction or closure of the Facility, for other than a "**Force Majeure**" event, which results in the permanent shutdown of the System at the Facility, if BUYER and SELLER are unable to agree upon an alternative location for the System as defined in Section 12.2 below.

10.3.3 BUYER'S refusal to sign authorizations reasonably required by SELLER to obtain any rebate, incentive, or subsidy contemplated in Section 7 above or BUYER'S refusal to sign or comply with any material term of the approved interconnection agreement required by the Utility for interconnection of the System.

10.3.4 Failure by BUYER to perform or comply with any other material term of this PPA within sixty (60) days after written notice by SELLER, unless SELLER agrees to a longer period to cure the default.

10.3.5 SELLER Remedies. If any default by BUYER shall continue uncured, following notice of default where required herein, for the period applicable to the default alleged, SELLER may resort to any one or more of the following remedies:

10.3.5.1 Termination. SELLER may terminate the PPA by providing written notice to BUYER indicating that the PPA has been terminated.

10.3.5.2 Damages. In the event of a termination under section 10.3.5.1, above, BUYER shall pay to SELLER a Termination Fee, calculated as set forth in Exhibit 4. The Parties acknowledge and agree that in the Event of Default of this PPA by BUYER, SELLER's actual damages would be difficult or impossible to compute and that this Early Termination Fee calculation provision represents the reasonable estimate of such damages established by the parties in good faith consideration of the facts and circumstances surrounding the transactions contemplated by this PPA as of the effective date.

10.3.5.3 Removal. In addition to the other remedies specified herein, SELLER may remove the System at its own cost, provided that any Facility located on BUYER owned or leased property is restored to a condition substantially similar to the pre-installation condition subject to ordinary wear and tear as called for by this BUYER.

10.4 Failure of SELLER to Perform Required Acts. Subject to SELLER's right to contest as provided elsewhere in this PPA, if SELLER fails, refuses, or neglects during the Term to do any of the things required to be done by SELLER, BUYER shall have the right, but not the obligation, to do the same, but at the cost of and for the account of SELLER. Unless BUYER reasonably believes that its interests may be adversely affected by such delay, BUYER shall in no case take such action sooner than one hundred and eighty (180) days after giving SELLER written notice of such failure, refusal or neglect. SELLER shall pay to BUYER on demand any sum expended by BUYER under this Section 10.4 together with interest thereon as defined in Section 1.18. Nothing contained in this Section 10.4 shall

impair the rights of BUYER with regard to defaults or remedies under the remaining portion of this Section 10.

- 10.5 Force Majeure. Any party claiming Force Majeure with respect to its performance hereunder shall advise the other party as soon as possible of the occurrence of the event and shall provide the other party with the basis of the claim, in writing, within ten (10) days of the occurrence of the event. Each party shall make reasonable efforts to avoid the adverse impacts of a Force Majeure and to resolve the event or occurrence once it has occurred in order to resume performance
- 10.6 Arbitration and Dispute/s Resolution. The Parties shall perform their responsibilities under this PPA during any dispute, except for a dispute alleging non-payment of payments due by the BUYER to SELLER. The parties will attempt in good faith to resolve any disputes between them through negotiations. If they are unsuccessful, all claims arising out of this PPA will be decided through binding arbitration. If the parties cannot agree to the arbitrator and arbitration process, the arbitration will be conducted under the auspices of the American Arbitration Association under its Rules and shall take place in Kern County, California. In the event of any dispute or claim arising out of this PPA, the prevailing party shall be entitled to an award of its attorney fees and costs incurred, including those on appeal, on review or in bankruptcy. The parties agree to consolidate their arbitration with any other arising from the PPA

11 **TEMPORARY SHUTDOWN OF SYSTEM**

- 11.1 In-lieu Payments or Extension of PPA. If, during the Term, renovations or damage to the Facility occurs ,for reasons other than a Force Majeure, which significantly reduces (greater than 50% of Expected Production) or eliminates the use by BUYER of Electricity from the System or requires the temporary shutdown of the System, the Parties may, by mutual consent agree to extend the Term by one day for each day that the System was shut down.
- 11.2 Notice. SELLER will make a good faith effort to give as much notice as possible to BUYER prior to System shutdown. SELLER must coordinate a System shutdown with BUYER.

12 **RESERVED**

13 **RESTRICTIONS ON SHADING**

- 13.1 BUYER will make all good faith efforts to avoid activities which result in overshadowing or shading of the System in a manner that would prevent SELLER from meeting the Expected Production as described in Exhibit 1. In the event that BUYER activities result in the System being overshadowed in manner that causes the System to produce less than 95 percent of the Expected Production Output on a kWh basis over any twelve (12) month period, BUYER agrees to pay in-lieu fees up to the Expected Production as described in Section 11.1.2 for the duration of the period for which the shadowing occurs. SELLER shall provide and justify data verifying the actual loss of generation that occurred due to shading. BUYER shall not be required to pay such in-lieu fees unless SELLER

demonstrates to BUYER'S reasonable satisfaction that the loss in generation is due to shading attributable to the BUYER'S actions. Notwithstanding any other provision of this PPA, the Parties agree that if BUYER'S actions result in shadowing of the System such that the System produces less than 80 percent of the Expected Production, the Parties shall make every effort to relocate the System to a mutually agreeable location. If the Parties cannot agree on an alternative location for the System, then SELLER will be entitled to a Termination Fee pursuant to Sections 12, 10.3.5.1, and 10.3.5.2.

- 13.2 **"Permanent Shutdown of the System at the Facility"** and Exhibit 4. The Parties agree that shading resulting from actions outside of the control of BUYER shall not give rise to the remedies provided for in this Section.

14 **COMPLIANCE WITH APPLICABLE LAWS, INCLUDING UTILITY INTERCONNECTION STANDARDS**

SELLER, at its own cost and expense, shall comply with all Applicable Laws relating to the operation of the System and the generation and sale of Electricity to BUYER, including obtaining and maintaining all relevant approvals and permits. In particular, SELLER, throughout the term of the PPA, will fully comply with any and all operational standards and requirements imposed by the Utility, and comply with the electrical interconnection requirements as stated in the applicable and controlling Utility tariff. BUYER will cooperate with SELLER and, if necessary, will provide consents and execute with the Utility such agreements (if such agreements do not have unacceptable or prohibited terms and/or conditions, or impose additional costs on BUYER) as are necessary to permit the interconnection of the System. This electrical interconnection shall be done at no cost or liability to BUYER, and SELLER shall reimburse BUYER for all out of pocket costs incurred in connection with any interconnection agreement. Should the Utility demand fees or equipment exceeding the SELLER's estimates for electrical interconnection requirements, SELLER may at its sole discretion cease to proceed with installation of the System without further obligation to BUYER other than the obligation to restore the Facility to near pre-installation condition if installation was initiated on BUYER owned or leased property.

15 **NON-DISCRIMINATION**

- 15.1 SELLER's Obligations. SELLER shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition, age, marital status, and denial of family care leave. SELLER shall ensure that the evaluation and treatment of its employees and applicants for employment are free from such discrimination and harassment, and shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this PPA by reference and made a part hereof as if set forth in full.

- 15.2 Inclusion in Subcontracts. SELLER represents and warrants that it shall include the substance of the nondiscrimination and compliance provisions of this clause in all subcontracts in connection with its obligations hereunder.

16 TAXES

SELLER shall pay all taxes, assessments or charges that at any time may be lawfully levied upon any interest in the Facility, the System, or this PPA. If local taxes or assessments are levied above the rates on the date of COD then those additional fees shall be split 50% is owed by the SELLER and 50% is owed by the BUYER.

17 ASSIGNMENT

- 17.1 The duties and obligations of SELLER under this PPA shall not be assignable by the SELLER in whole or in part without the written approval of BUYER. BUYER will not unreasonably withhold written approval.
- 17.2 Event of Default. In the event of default by any assignee of SELLER or any successor to SELLER in the performance of the terms hereof, BUYER may proceed directly against SELLER without the necessity of exhausting remedies against such assignee.
- 17.3 Unique Expertise. Notwithstanding the foregoing, SELLER acknowledges that BUYER is relying upon the unique expertise and capability of SELLER. Any proposed assignee must have demonstrated to the BUYER the ability to perform the obligations required under the PPA.
- 17.4 Definition of Assignment. For purposes of this section, the sale, assignment, transfer or disposition, directly or indirectly, of any type, which results in a change of control of SELLER, shall be deemed an assignment of this PPA. Change of control shall be as defined in common law, and may be the result of a single or multiple related transactions which result in the cumulative transfer of more than fifty percent (50%) of the voting stock or equity interests of SELLER. However, in no event shall the transfer of shares (i) to a Lender which assumes SELLER's obligations hereunder, or (ii) to another limited liability company of which SELLER is the managing member, or (iii) in an open market transaction sale of shares of a publicly held company be considered an assignment. SELLER shall have a continuing duty to provide BUYER with written notice of any material change in the SELLER'S business structure and/or financial status.
- 17.5 Buyer's Right of First Refusal to purchase the BUYERs portion of the Facility. In the event (i) SELLER determines to sell the portion of the Facilities that provides power to the BUYER, or (ii) of SELLER's bankruptcy or insolvency, or (iii) SELLER defaults on any encumbrance secured by the BUYERS portion of the Facility, , SELLER shall provide reasonable notice to BUYER of such desire to sell, with the amount of the offering price, or of such bankruptcy, insolvency, or default, with the amount or nature of such default. Upon receipt of such notice, BUYER, in its sole discretion, shall have the exclusive right for a period of sixty (60) days to (i) in the event of SELLER's desire to sell, purchase the Facilities, or portion thereof, in the amount of the offering price, or any lesser amount which SELLER may be willing to accept; (ii) in the event of bankruptcy or insolvency of SELLER, purchase the BUYERs portion of the Facility, or portion thereof, at fair market value as determined by independent appraiser agreed to by both Parties ; or (iii) in the event of SELLER's default on any encumbrance secured by the Facilities, or portion

thereof, cure said default, or with respect to defaults which cannot be reasonable cured within ninety (90) days, commence such cure and diligently pursue such cure.

18 **FINANCING**

- 18.1 Non-Subordination. BUYER will not subordinate its interest in the Facility as security for any SELLER loans or financing. However, and notwithstanding the provisions of Section 18.2, below, SELLER may pledge its interest in the PPA, including any rights to payment and the System, as security for loans or financing. If SELLER's Lender(s) requests additional terms and conditions to those already provided in this PPA, BUYER will consider any such requests, but may refuse such requests in its sole and absolute discretion and may withhold consent or approval of such additional terms and conditions.
- 18.2 Security Interests in System. BUYER acknowledges that SELLER will be financing the acquisition and installation of the System with financing accommodations from one or more financial institutions and that SELLER's obligations will be secured by, among other collateral, a pledge or collateral assignment of this PPA and SELLER's rights to payment and a first security right in the System. In order to facilitate such financing, and with respect to any such financial institutions of which SELLER has notified BUYER in writing (each, a Lender) BUYER agrees as follows:
- 18.2.1 Classification of System as Personal Property. BUYER acknowledges that it has been advised that part of the collateral securing financial accommodations of SELLER is the granting of a first priority security interest ("**Security Interest**") in the System to Lender to be perfected by a filing under the Uniform Commercial Code ("**UCC**"). BUYER consents to such filings so long as they reflect the Parties' agreement that any filings to perfect or provide notice of the Security Interest clearly document the Parties' intent that the System is considered personal property only and is not considered a fixture to the Facility. These filings by SELLER or Lender may include filing of a Financing Statement (FORM UCC-1) which clearly covers the System as personal property only and not as a fixture.
- 18.2.2 Such filing shall not create any interest in or lien upon the real property underlying the Facility or the interest of BUYER therein and shall expressly disclaim the creation of such an interest or a lien.
- 18.2.3 BUYER will use commercially reasonable efforts to place its successors and assignees on notice of the ownership of the System by SELLER and/or Lender, the existence of the security interest, and the fact that the System is not part of the Facility or a fixture thereof, as necessary and appropriate to avoid confusion or adverse claims.
- 18.2.3 BUYER is not aware of any existing lease, mortgage, security interest or other interest in or lien upon the Facility that could attach to the System as an interest adverse to Lender's security interest therein.

19 **AMENDMENT**

No amendment or variation of the terms of this PPA shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in this PPA is binding on either party.

20 **AUDIT**

BUYER, or its designated representative, shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this PPA. SELLER will maintain such records for possible audit for a minimum of three (3) years after final payment under this PPA, unless a longer period of records retention is stipulated. SELLER will allow the auditor(s) access to such records during normal business hours after reasonable notice and to allow interviews of any employees who might reasonably have information related to such records. Further, SELLER will include a similar right of BUYER to audit records and interview staff in any subcontract related to performance of this PPA.

21 **INDEPENDENT CONTRACTOR**

SELLER, and its agents and employees, shall act in an independent capacity and not as officers or employees or agents of BUYER in the performance of this PPA.

22 **TIMELINESS**

Time is of the essence in this PPA.

23 **GOVERNING LAW**

This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

24 **UNENFORCEABLE PROVISION**

In the event that any provision of this PPA is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this PPA have force and effect and shall not be affected thereby. If the unenforceable provision has a detrimental effect on the ability of this PPA to function as intended for both parties, or causes a material change in the financial viability of this PPA for either party, then the parties will make a good faith effort to find an agreeable resolution. If Parties cannot find an agreeable resolution the SELLER may terminate this PPA and receive the Termination Fee (as defined in Sections 10.3.5.1 and 10.3.5.1, above, and in Exhibit 4).

25 **COUNTERPARTS**

This PPA may be executed in multiple copies, each of which shall be deemed an original, but all of which shall constitute one agreement after each party has signed such a counterpart.

26. **INDEMNITY**

SELLER agrees to defend, indemnify, hold free and harmless the BUYER, its elected officials, officers, agents and employees, at SELLER's sole expense, from and against any and all claims, actions, suits or other legal proceedings brought against the BUYER, its elected officials, officers, agents and employees arising out of the performance of the SELLER, its employees, and/or authorized subcontractors, of the work undertaken

pursuant to this Agreement. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by the SELLER, its employees, and/or authorized subcontractors, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the negligence, errors, omissions or misconduct of the SELLER, its employees, and/or authorized subcontractors, and/or whenever any claim, action, complaint or suit asserts liability against the BUYER, its elected officials, officers, agents and employees based upon the work performed by the SELLER, its employees, and/or authorized subcontractors under this Agreement, whether or not the SELLER, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the SELLER shall not be liable for the defense or indemnification of the BUYER for claims, actions, complaints or suits arising out of the sole active negligence or willful misconduct of the BUYER.

BUYER agrees to defend, indemnify, hold free and harmless the SELLER, its elected officials, officers, agents and employees, at BUYER's sole expense, from and against any and all claims, actions, suits or other legal proceedings brought against the SELLER, its elected officials, officers, agents and employees arising out of the performance of the BUYER, its employees, and/or authorized subcontractors, of the work undertaken pursuant to this Agreement. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by the BUYER, its employees, and/or authorized subcontractors, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the negligence, errors, omissions or misconduct of the BUYER, its employees, and/or authorized subcontractors, and/or whenever any claim, action, complaint or suit asserts liability against the SELLER, its elected officials, officers, agents and employees based upon the work performed by the BUYER, its employees, and/or authorized subcontractors under this Agreement, whether or not the BUYER, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the BUYER shall not be liable for the defense or indemnification of the SELLER for claims, actions, complaints or suits arising out of the sole active negligence or willful misconduct of the SELLER.


27 Guarantee of Savings

SELLER guarantees BUYER a minimum yearly savings of [REDACTED]. Actual Yearly Savings is to be calculated by SELLER pursuant to Exhibit 5. Actual Yearly Savings will be calculated on a yearly basis, within thirty (30) business days of each anniversary of the Commercial Operations Date. Any amount of savings under the [REDACTED] allocation shall be credited to BUYER in "Guaranteed Minimum Savings Shortfall Amounts". Guaranteed Minimum Savings Shortfall Amounts are to be calculated by subtracting the Guaranteed Minimum Yearly Savings [REDACTED] Yearly Savings (Calculated by SELLER). Guaranteed Minimum Savings Shortfall Amounts are to be divided by 12 and incrementally awarded to BUYER in the form of equal credits on each monthly bill for the 12 months following the calculation of Guaranteed Minimum Savings Shortfall

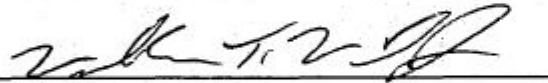
Amounts ("Guaranteed Minimum Savings Credits"). Guaranteed Minimum Savings Credits shall constitute full payment for SELLER'S failure to achieve the Guaranteed Minimum Yearly Savings. BUYER may choose to exercise either the Guarantee of Minimum Yearly Savings OR the Failure to Achieve Guaranteed Minimum Production Penalty at BUYER's sole discretion, and the exercising of one releases all liability associated with the other.

IN WITNESS WHEREOF and in confirmation of their consent to the terms and conditions contained in this PPA and intending to be legally bound hereby, BUYER and SELLER have executed this PPA as of the Effective Date.

SELLER:
American Solar Utility LLC

By: 
TITLE: President & Managing Member

BUYER:
The City of California City

By: 
TITLE: CITY MANAGER

Approved as to Form:



Cristian Bettevbaum
City Attorney

EXHIBIT 1

ELECTRICITY PRICING, GUARANTEED MINIMUM PRODUCTION, AND BILLING METHODOLOGY

1. Electricity Pricing

SELLER:

████████████████████. The lowest or minimum price to be paid for electricity by BUYER ████████████████████. All other charges for electrical service fees from the Utility company (SCE) are the responsibility of the BUYER. These charges include but are not limited to; taxes, surcharges, demand charges, monthly and daily meter costs, service and repair fees.

Escalation Factor: [REDACTED] applied annually at the anniversary of the Commercial Operation Date

Rate Calculation: [REDACTED]

Where:

Term: Twenty (20) Years.

SELLER's price shall be adjusted as specified in the table below on each anniversary of the Commercial Operation Date for the term of the contract.

TABLE 1.1 EXPECTED POWER PRODUCTION & PURCHASE

[illegible]

3 Electricity Purchase and Sales.

a. General Provisions:

SELLER will generate, deliver and sell Electricity, when available from the System, to the BUYER at the Electrical Interconnection Point during the term of this PPA.

SELLER agrees to generate, deliver and sell a quantity of Electricity as noted in Exhibit 1 Section 2 (above) and as guaranteed in PPA Section 5 to the BUYER from the System and BUYER agrees to purchase Electricity as measured at the Electrical Interconnection Point.

b. Formulas for Pricing:

SELLER shall prepare invoices in accordance with the formulas set forth in Exhibit 2 in the format set forth in Exhibit 3. SELLER shall render to BUYER an invoice each month for the preceding billing period during the Term of this PPA setting forth the actual amount of kWh delivered ("**Expected Production**") and the amounts due SELLER for Electricity generated and delivered by the System. BUYER will remit full payment with each invoice to SELLER, subject to any offsets for Guaranteed Minimum Production shortfalls, due under PPA.

4 Billing Disputes

In the event BUYER disputes all or any part of any bill submitted by SELLER under this PPA, BUYER shall pay the undisputed portion of the invoice when due and shall notify SELLER in writing within fifteen (15) days from the date of receipt of any disputed invoice or adjusted invoice. The Parties shall use best efforts to resolve the dispute amicably and promptly, and upon determination of the correct billing amount, BUYER shall promptly pay or be paid the remaining portion or refund due (if any), with interest at the Interest Rate from the date payment was due until paid (in the case of an underpayment) or from the date paid until refunded (in the case of an overpayment). Late payment fees shall not be applied to amounts that are subject to a good faith dispute until the dispute is resolved and interest is calculated in accordance with this Section. In the event that disputed amounts cannot be resolved through the process of conference, disputes shall be addressed through the process provided in Section 10.6 of the PPA.

SELLER shall submit invoices to BUYER at the address as set forth below. SELLER shall also submit a duplicate invoice (copy only) to BUYER at the address as noted on the subsequent page.

5 Renewable Energy Credits

SELLER is to be the recipient and owner of all Renewable Energy Credits, and as such can market, sell, or trade them at SELLER's sole discretion. Each and any successor to the SELLER shall be the recipient and owner of all Renewable Energy Credits accrued starting after the official closing date of the transaction, on the date which the successor takes physical possession of the system, until the end of that entity's ownership of the system (whichever comes first).

6 Payment Address Notice

BUYER shall submit all payments under this PPA to SELLER's project representative at the address listed in PPA Section 9. Parties agree that if BUYER receives notification to change the SELLER'S designated address for purposes of payment BUYER will notify the project representative at the address listed in PPA Section 9 at least sixty (60) days prior to the first submittal of payment to the new address. Parties also agree that BUYER will submit payments under this PPA by electronic funds transfer when electronic transfer becomes a readily available payment method for the BUYER.

7 Failure to Achieve Guaranteed Minimum Production Penalty

Upon Failure to Achieve Guaranteed Minimum Production, measured on a biennial basis, a payment will be made from SELLER to BUYER in the sum of [REDACTED] per kWh on a basis of the following calculation:

$$P = R(MO-AO)$$

Where: P = Payment R = Rate ([REDACTED] per kWh)

MO = Guaranteed Minimum Production for the time period in kWh (Exhibit 1 Section 2 see table)

AO = Actual output for the time period in kWh

EXHIBIT 2

BILLING FORMULAS AND EXAMPLES

SELLER shall provide invoices as indicated in this Exhibit and shall indicate the source and calculation of each variable set forth below in a manner so that the BUYER can readily confirm the accuracy and appropriateness of each invoice. An example of a monthly invoice is attached as Exhibit 3 to this PPA.

The total invoice for Electricity delivered by SELLER for the month in question shall be determined as follows:

$$P = E * R_n,$$

Where:

P = Monthly payment made to SELLER for electricity delivered during the billing period.

E = Electricity delivered, as shown on meter, during the billing period

R_n = is the contract price for the monthly billing period in \$/kWh as set forth in Exhibit 1.

EXHIBIT 3

SAMPLE ENERGY INVOICE

Facility Name: _____

Facility Contact Person: _____

Facility Address: _____

Account # : _____

Meter #: _____

Start Date	End Date	Start Meter Read	End Meter Read	Total kWh
Mo/day/year	Mo/day/year			

Contract Price: Fixed price for power in Exhibit 1. Total Cost of Power Delivered will be determined by the fixed pricing schedule as specified multiplied by the kilowatt hours used: SELLER shall receive all revenue from excess power produced at the rate provided by the Utility. This revenue shall be passed directly through to SELLER when received by BUYER from PG&E. If the compensation is in a form of a credit to BUYER then that credit shall be paid to SELLER by BUYER. All CSI and tax incentives or rebates shall belong to the SELLER as compensation for the construction of the facility.

CHARGES:

kWh of Energy Used: 0.00

Fixed Price per kWh for Time Frame: \$ 0.00

Amount Due: \$ 0.00

Other Fee's \$ 0.00

Total Amount Due: \$ 0.00

**Please make payment to: American Solar Utility LLC
1470 Civic Court, Suite 309
Concord, CA 94520**

EXHIBIT 4

EARLY TERMINATION FEE CALCULATION

In the event of a termination of this PPA pursuant to Sections 10.3.5.1 and 10.3.5.2, 12, and/or 13.1, other than Force Majeure or default by the SELLER, BUYER shall pay to SELLER an Early Termination Payment corresponding to the year in which early termination occurs.

The Early Termination Payment shall be calculated as outlined below.

The Yearly per kWh rate multiplied by the Guaranteed Minimum Production for the corresponding year multiplied then divided by 365 days to obtain a daily value then multiply that value by the remaining days in the year. Repeat the process for every year remaining on the original Term of the PPA. Sum all the yearly calculations together and obtain the total Early Termination Payment to be made to SELLER by BUYER.

Exhibit 5
Actual Yearly Savings Calculation

The Actual Yearly Savings Calculation will go as follows

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

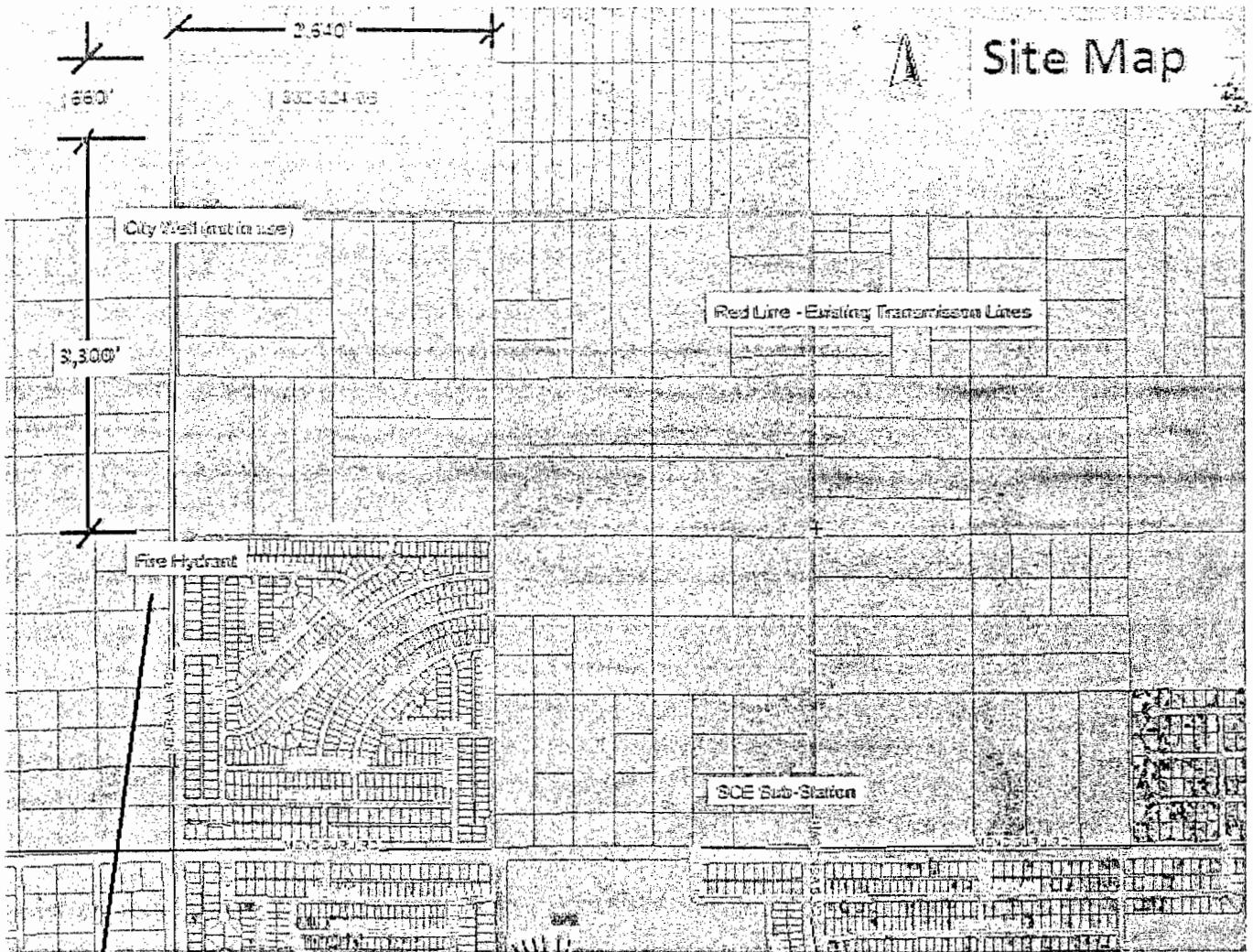
[REDACTED]

[REDACTED]

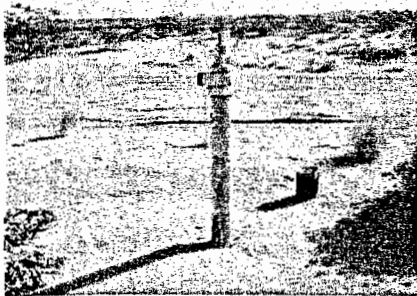
[REDACTED]

SELLER reserves the right to change or amend the calculation of Actual Yearly Savings presented in this Exhibit 5, for cause of; error or omission in this Exhibit, Force Majeure Event, Change in Law, Change in the Net Metering Interconnection Agreement signed with the Utility, Change in implementation of NEM Interconnection Agreement, or Change in any Tariff associated with BUYER electrical systems.

Changes to these calculations are to be delivered to BUYER with an explanation of the changes in the calculation, in written form and implemented dependent on reasonable acceptance by BUYER, which must not be unreasonably withheld.



American Solar Utility LLC — Cal City Project 1

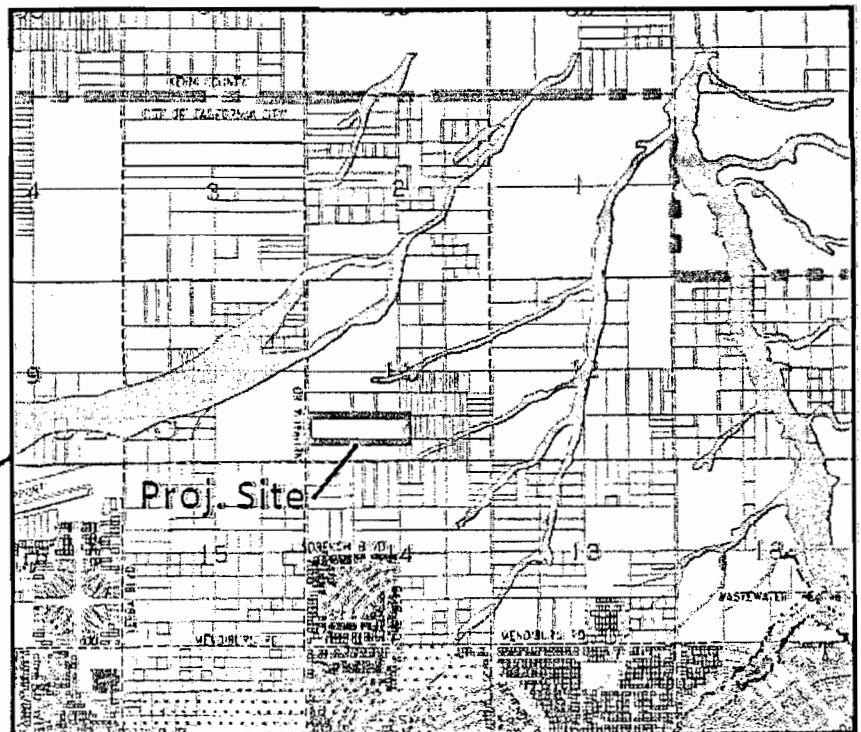


FEMA Section X

Flood Panel

06029C2940E

Date: 9-26-2008



AMERICAN SOLAR UTILITY LLC - CALIFORNIA CITY PROJECT 1

CONCEPT AND SITE PLAN

